

Authority: Item 11, Planning and Economic
Development Committee
Report 05-010 (PD05119)
CM: May 11,2005

Bill No. 114

CITY OF HAMILTON

BY-LAW NO. 05-114

Discharge of Firearms By-law

WHEREAS the City of Hamilton is the successor to the following former area municipalities: The Corporation of the Town of Ancaster; The Corporation of the Town of Dundas; The Corporation of the Town of Flamborough; The Corporation of the Township of Glanbrook; The Corporation of the City of Hamilton; and The Corporation of the City of Stoney Creek;

AND WHEREAS the City of Hamilton Act, 1999, provides that the By-laws of the former area municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS the Municipal Act, S.O. 2001, Chapter 25, as amended, section 119, authorizes a local municipality, for the purpose of public safety, to prohibit or regulate the discharge of guns or other firearms, air-guns, spring-guns, cross-bows, long-bows or any other firearm.

AND WHEREAS this By-law shall be referred to as the "Discharge of Firearms Bylaw".

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. SHORT TITLE

This by-law may be cited as the "DISCHARGE OF FIREARMS BY-LAW".

2. DEFINITIONS

- (1) **“bow means”** a longbow, compound bow, re-curve bow, or any class thereof, or cross-bow
- (2) **“corporation”** means a corporation incorporated pursuant to the Business Corporations Act, R.S.O. 1990, as amended, the Corporations Act, R.S.O. 1990, as amended, or the Canada Business Corporations Act.
- (3) **“educational institution”** means any educational institution under the jurisdiction of the Ministry of Education or the Ministry of Colleges and Universities; a non-profit institution licensed or recognized by or under an Act of Parliament or the legislature of a province to provide pre-school, elementary, secondary or post-secondary education; and a non-profit institution that is directed or controlled by a board of education regulated by or under an Act of the legislature of a province and that provides continuing, professional or vocational education or training and includes an outdoor area when in use for instructional or recreational purposes by an education institution, whether or not adjacent to a building;
- (4) **“farm lands”** means lands that are:
 - (a) primarily and actively used for the raising of livestock and/or growing of produce; and
 - (b) a contiguous parcel of land having an area of no less than four **(4)** hectares and zoned agricultural; and
 - (c) identified as a “farm class” by the Farms Lands Property Class Tax Program administered by the Ontario Ministry of Agriculture and Food.
- (5) **“firearm”** or **“firearms”** means a barrelled weapon from which any shot, bullet or other projectile can be discharged and that is capable of causing serious bodily injury or death, and includes, air-guns, spring-guns, pellet gun or paint ball gun.
- (6) **“immediate danger”**, for the purposes of section 5, means a continuing and immediate danger posed by an animal to livestock, produce or property on farm lands or the fenced or penned area in which such livestock or produce may be located,
- (7) **“Law Enforcement Officer”** includes a police officer, a Provincial Offences Officer, a Municipal Law Enforcement Officer.

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- (8) **“livestock”** includes cattle, poultry, swine and other domesticated animals;
- (9) **“private park”** means a recreational area other than a public park and may include outdoor or indoor swimming pools, wading pools, snack bars, picnic areas, boating facilities, tennis courts, lawn bowling, gardens, or similar open spaces facilities, but excluding overnight camping areas.
- (10) **“produce and staple crops”** includes cultivated fresh fruits, vegetables, grains, rice and other consumable plants;
- (11) **“public park”** means a recreational area or any land, and land covered by water and all portions thereof owned by or made available by lease, agreement, or otherwise to the City of Hamilton, that is or hereafter may be established, dedicated, set apart or made available for use as a public open space or public golf course, and that has been or hereafter may be placed under the jurisdiction of the City of Hamilton including any and all buildings, structures, facilities, erections, and improvements located in or on such land or any other recreational area owned or controlled by the City of Hamilton or any board, or commission established under any statute of the province of Ontario.
- (12) **“religious institution or organization”** means an association that is (a) charitable according to the law of Ontario, (b) organized for the advancement of religion and for the conduct of religious worship, services or rites, and (c) permanently established both as to the continuity of its existence and as to its religious beliefs, rituals and practices;
- (13) **“Target Archery”** means indoor or outdoor archery organized for sport in which the participant uses a bow to discharge arrows at a target for practice or competition, but does not include forms of archery known as, field archery, ski archery, Clout archery, Flight archery, Popijay archery or Archery golf.

3. GENERAL PROHIBITIONS

- (1) No person shall discharge a firearm or bow within the limits of the City of Hamilton, except as provided for in Section 5
- (2) No owner or occupier of property shall permit the discharge of a firearm or bow on property to which they own or occupy, except as provided for in Section 5

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- (3) No person permitted under this By-Law to discharge a firearm or bow shall fail to ensure that projectile(s) discharged from the firearm or bow will not leave the property from where the discharge took place.
- (4) No person shall discharge a firearm or bow within one hundred (100) meters of a dwelling, a public park or private park, a public open space or the premises of an educational institution or of a religious institution or organization, including but not limited to any building, structures or grounds related thereto.
- (5) No person shall obstruct a Law Enforcement Officer while such Law Enforcement Officer is engaged in his or her duties under this By-Law.

4. SCOPE

This By-Law does not apply to:

- (a) lands which are a federally regulated national defence establishment as defined by the National Defence Act; and
- (b) any duly authorized Law Enforcement Officer exercising the authorities found within the Fish and Wildlife Conservation Act S.O. 1997, CHAPTER 41 or engaged in the performance of his or her duties including, any training exercises.
- (c) Target Archery the location and use of which is lawful with applicable zoning and building requirements and any other applicable federal, provincial and municipal laws.

5. EXEMPTIONS

(1) Subsections 3.(1) and 3.(2) of this By-law do not apply to:

- (a) a person discharging a firearm who holds all hunting and firearms licences required by law providing that the discharge occurs in the areas indicated on the map attached as Schedule 'A'; attached hereto, which Schedules form part of this By-law.
- (b) a person discharging a bow who holds all hunting and firearms licences required by law providing that the discharge occurs in the areas indicated on the map attached as Schedule 'B'; attached hereto, which Schedules form part of this By-law.

- (c) a federally regulated and licensed rifle range, gun shop, firearms dealer or gun club, the use and location of which is lawful with applicable zoning and building requirements and any other applicable federal, provincial and municipal laws
- (d) a person discharging a firearm or bow or permitting the discharge of a firearm or bow on the lands indicated on Schedule "A" and on Schedule "B" attached hereto provided that such person is the lawful owner or occupier of such lands or such person has been expressly authorized by the lawful owner or occupier to do so and provide that such person complies with subsection 5(a) and (b).

(2) Subsections 3.(1), 3.(2) and 3(4) of this By-law do not apply to:

- (a) the discharge of a firearm by an individual while on his or her own farm lands, provided that the property comprises a contiguous parcel of land having an area of four (4) hectares or more and is zoned agricultural and that the purpose of the discharge is to protect livestock or produce from the immediate danger of attack from animals;
 - (i) In the event that the farm lands are owned by a corporation, representatives of the corporation authorized under this subsection shall be entitled to the exemption provided by this subsection. The corporation may designate authorized representatives, at any time, for the purpose of this subsection provided that the authorized representative complies with subsection 6(1)
- (3) Any person who is the Event Organizer undertaking a military re-enactment exercise or practice shall as part of the Special Event, apply in writing to the City of Hamilton for an exemption from sections 3(1) and 3(2) and sections 5(1)(a) and 5(1)(b), with respect to public parks or public open space or specified area thereof, of this By-law, provided that the safety measures for such exercise and all other requirements, including but not limited to insurance and indemnification for loss, injury or damages, which may be imposed by the City of Hamilton are to the satisfaction of the City of Hamilton's Special Events Advisory Team.
- (4) An individual while on his or her own land may apply in writing to the Building and Licensing Division of the City of Hamilton for an exemption from

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subsection 3(1). Applications for an exemption pursuant to this section must receive Council approval. Council in its discretion, after considering the report from Committee may grant, modify or refuse to approve the application.

- (5) An application made pursuant to section 5(4) must indicate the following:
- (i) that the discharge of a firearm or bow is for the purpose of hunting by the individual while on his or her own land, and
 - (ii) that a survey plan, has been submitted indicating the municipal address, geographical location and layout of where the hunting is to take place and the portion of the surrounding area that could be affected by the discharge of the firearm or bow, and
 - (iii) that the property comprises a contiguous parcel of land having an area of four **(4)** hectares or more and is zoned agricultural, and
 - (iv) whether a firearm or bow or both will be used.
- (6) Exemptions granted pursuant to section 5(4) are subject to a one (1) year limitation, after which time the exemption is revoked.

6. REGULATIONS

- (1) Notwithstanding subsection 5, no person, where such person is not the lawful owner or occupier of the lands upon which the person carries a firearm or bow, shall fail to have in their possession and be able to produce, upon request of a Law Enforcement Officer, the current name address and phone number of the lawful owner or occupier of the said lands or legal representative giving such person the permission to discharge a firearm or bow.

7. ENFORCEMENT

- (1) Any person who contravenes any provision of this By-Law is, upon conviction, guilty of an offence and is liable to any penalty as provided by the Provincial Offences Act.
- (2) The Court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

8. REPEAL

The following By-Laws:

The Corporation of the Town of Ancaster By-Law No. 76- 29 and By-Law No. 89-115;

The Corporation of the Town of Dundas By-Law No. 2792-75;

The Township of Flamborough By-Law No. 81-93-F, as amended by By-Law No. 90-13-F and By-Law No. 96-48-F;

The Corporation of the Township Of Glanbrook By-Law No. 55-74, as amended by By-Law No. 55-1-93 and by-law No. 222-80 as amended;

The Corporation of the City of Hamilton By-Law No. 8567; and

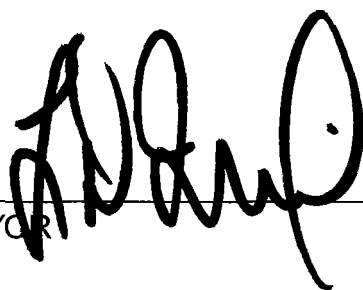
The Corporation of the Town of Stoney Creek By-Law No. 92-74, as amended by By-Law No. 187-75, By-Law No. 1253-82 and By-Law No. 394 1-94

shall be and the same are hereby repealed.


9. ENACTMENT

This By-Law shall come into force on the day it is passed.

PASSED and ENACTED this 11th day of May, 2005.



MAYOR



CLERK

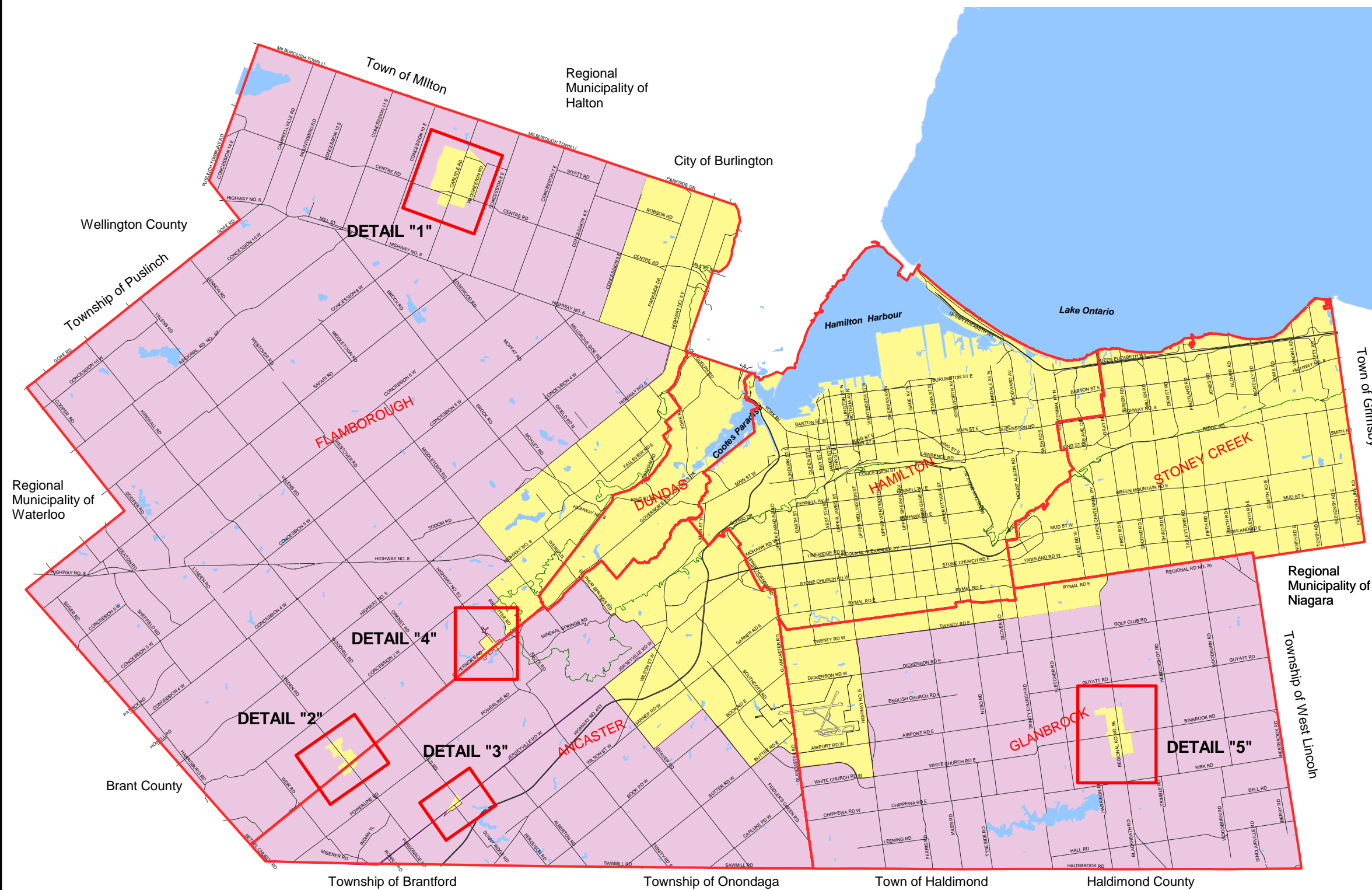


Hamilton

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SCHEDULE 'A'

Discharge of Firearms Area



LEGEND

- DISCHARGE OF FIREARM PERMITTED
- AREA SUBJECT TO SECTION 3(1) OF THIS BY-LAW



NORTH
SCALE N.T.S.

APRIL 2005

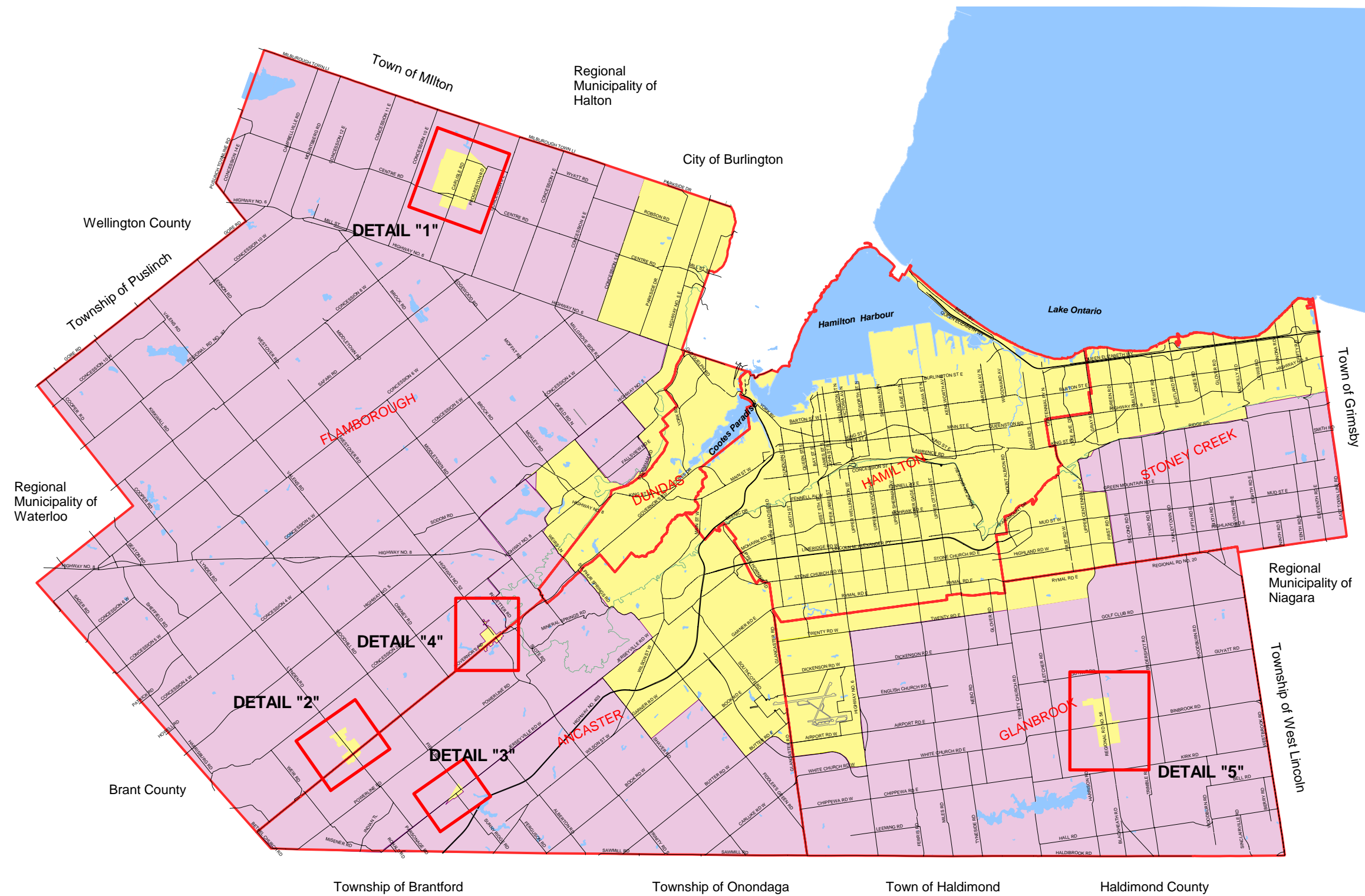


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SCHEDULE 'B'

Discharge of Bow Area



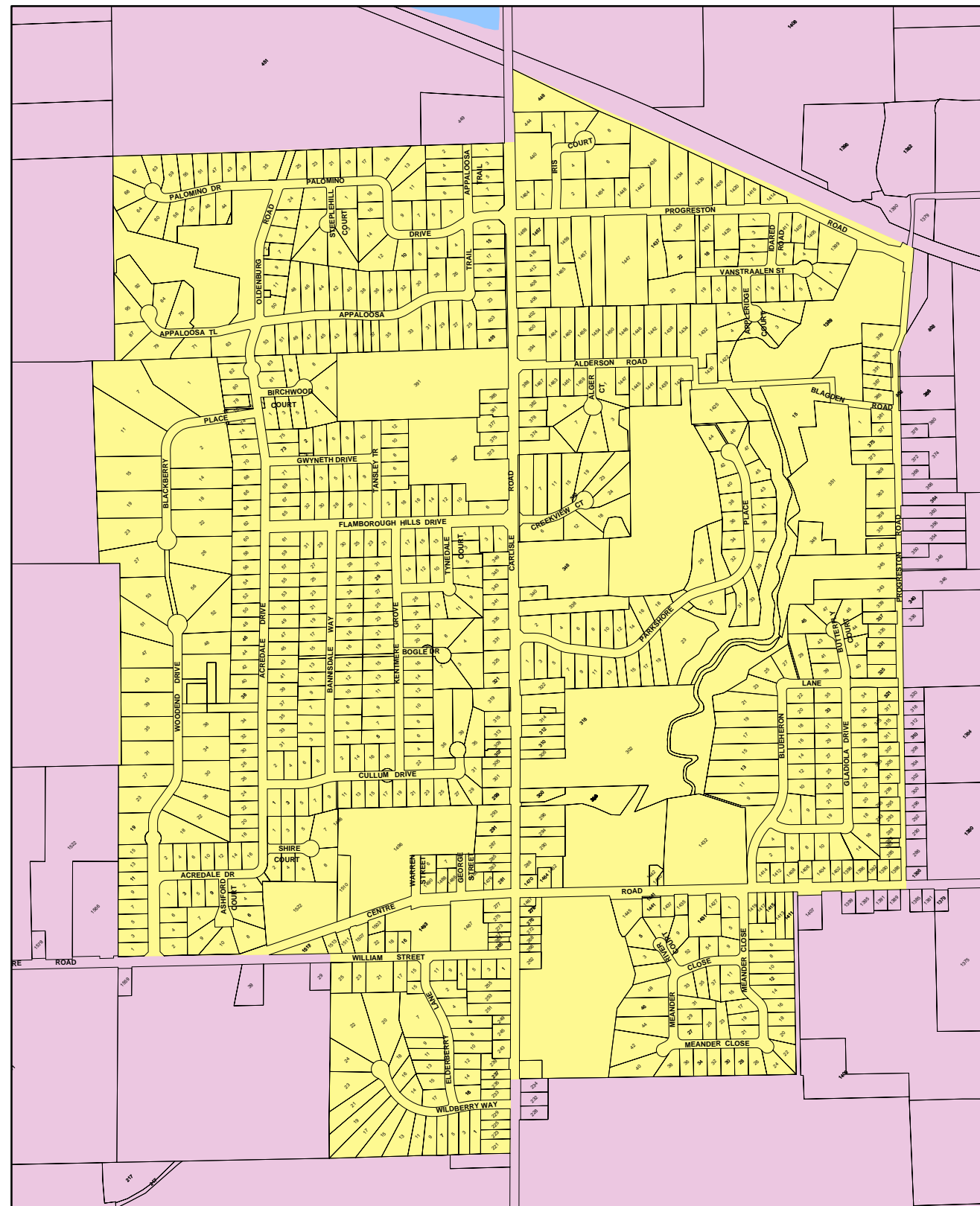
LEGEND

- DISCHARGE OF FIREARM PERMITTED
- AREA SUBJECT TO SECTION 3(1) OF THIS BY-LAW



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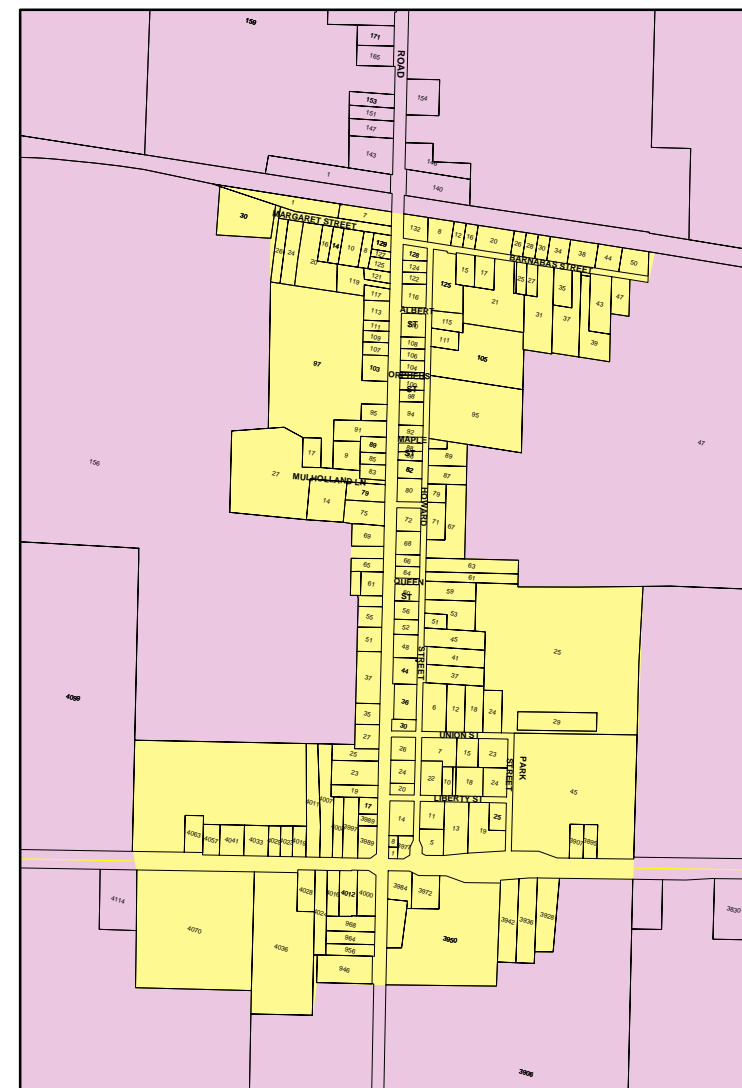
DETAIL 1 TO SCHEDULE A AND SCHEDULE B



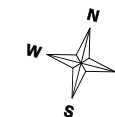

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DETAIL 2 TO SCHEDULE A AND SCHEDULE B



SCALE 1:12500






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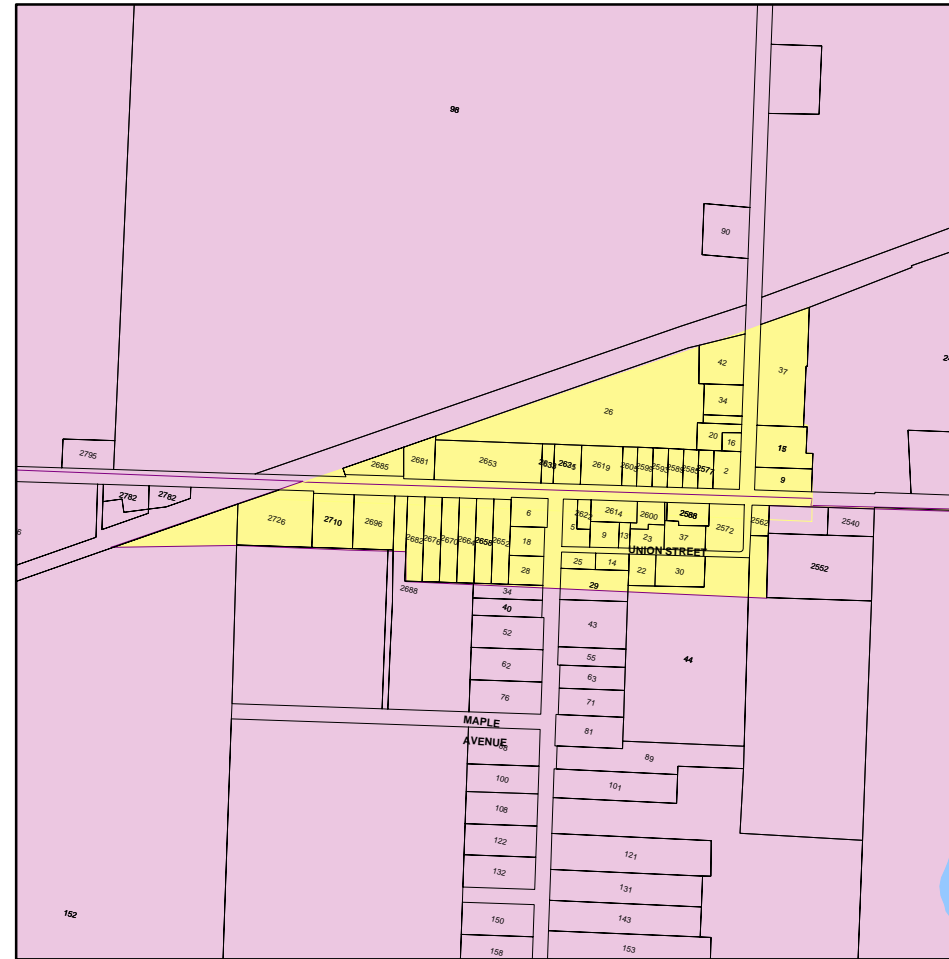
SCHEDULE 'A' Details 1 & 2

**Details Discharge of
Firearms and Bows Areas**

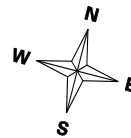
LEGEND

-  DISCHARGE OF FIREARM AND BOWS PERMITTED
-  AREA SUBJECT TO SECTION 3(1) OF THIS BY-LAW

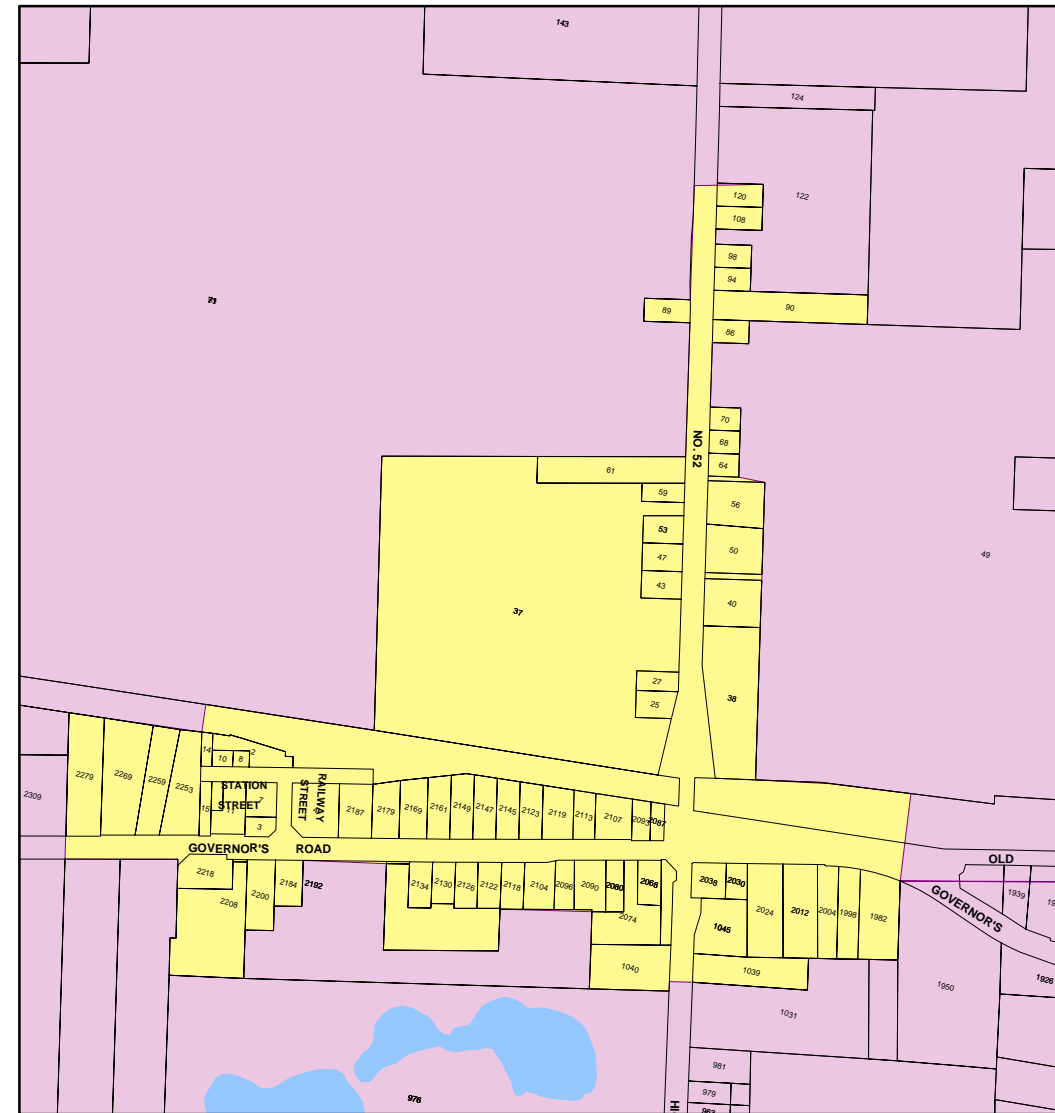
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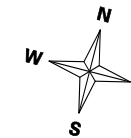
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DETAIL 4 TO SCHEDULE A AND SCHEDULE B



SCALE 1:10000



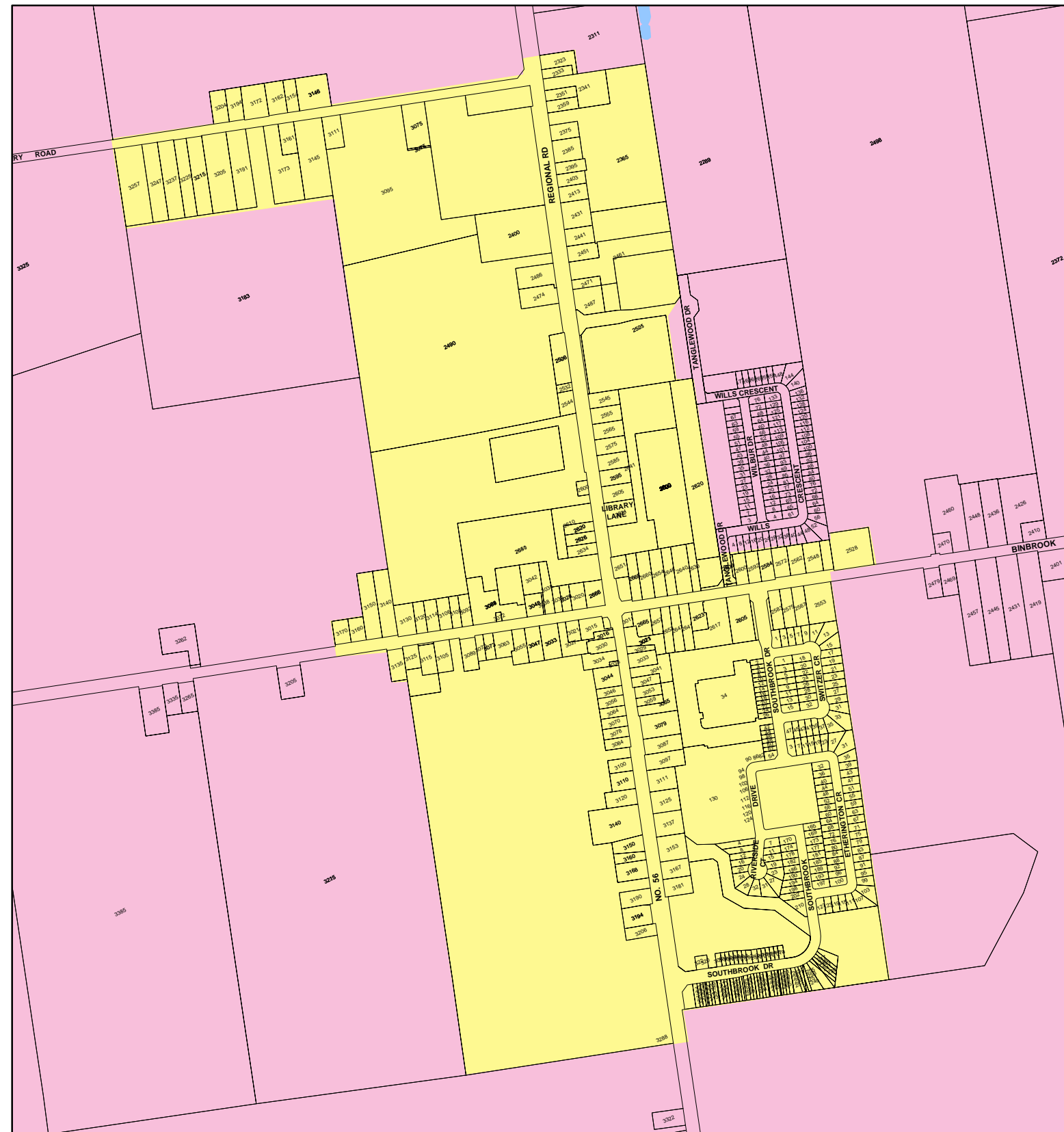
SCHEDULE 'A' Details 3 & 4

Details Discharge of Firearms and Bows Areas

LEGEND

- DISCHARGE OF FIREARM AND BOWS PERMITTED
- AREA SUBJECT TO SECTION 3(1) OF THIS BY-LAW

DETAIL 5 TO SCHEDULE A AND SCHEDULE B



SCALE 1:10000





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SCHEDULE 'A' Detail 5

Details Discharge of
Firearms and Bows Areas

LEGEND

-  DISCHARGE OF FIREARM AND BOWS PERMITTED
-  AREA SUBJECT TO SECTION 3(1) OF THIS BY-LAW