

THE CORPORATION OF THE TOWN OF WHITBY

BY-LAW NO. 6780-13

BEING A BY-LAW TO REGULATE THE DISCHARGE OF FIREARMS IN CERTAIN
DEFINED AREAS OF THE TOWN OF WHITBY

WHEREAS Section 9 of the Municipal Act, 2001, S.O. 2001, c.25 provides a municipality the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

WHEREAS Section 11 of the Municipal Act, 2001, S.O. 2001, c.25 provides that municipalities may provide any service or thing that the municipality considers necessary or desirable for the public, including the passing of by-laws within the respective sphere of jurisdiction;

WHEREAS Section 119 of the Municipal Act, 2001, S.O. 2001, c.25 authorizes a local municipality for the purpose of public safety to prohibit or regulate the discharge of firearms;

WHEREAS Sections 23.1, 23.2, 23.3 and 23.5 of the Municipal Act, 2001, S.O. 2001, c.25 authorize a municipality to delegate certain powers and duties;

WHEREAS Section 425 of the Municipal Act, 2001, S.O., c.25 authorizes a municipality to provide offences for a contravention of a by-law;

WHEREAS Section 429 of the Municipal Act, S.O. 2001, c.25 authorizes a municipality to establish a system of fines for offences under a by-law;

NOW THEREFORE the Council of the Corporation of the Town of Whitby enacts as follows:

1. DEFINITIONS

1.1 In this by-law,

- a) "agent" means a person authorized by the Regulations under the Fish and Wildlife Conservation Act or any amendment or successor legislation thereto;
- b) "agricultural operation" means an agricultural, aquacultural, horticultural or silvicultural operation that is carried on in the expectation of gain or reward;
- c) "animal control officer" means an animal services officer, municipal law enforcement officer, officer appointed under the Fish and Wildlife

- Conservation Act, or Conservation Authorities Act, or other person appointed by by-law to enforce the provisions of this by-law;
- d) "bow" means
- i. a curved or re-curved, stave of a resilient material strung taut from end to end and used to launch an arrow, a bolt, a quarrel, or any similar projectile;
 - ii. a bow that uses a levering system, usually of cables and pulleys, to bend the limbs;
 - iii. a bow that is tall, roughly equal to the height of a person which allows a fairly long draw, with limbs that are relatively narrow so that they are circular or D-shaped in cross section and is commonly referred to as a long bow;
- e) "cross-bow" means a bow fixed across a stock with a groove for the arrow or bolt and a mechanism for holding and releasing the string;
- f) "conservation officer" means a Conservation Officer or Deputy Conservation Officer appointed pursuant to the Fish and Wildlife Conservation Act;
- g) "council" means the elected Council of The Corporation of the Town of Whitby;
- h) "dwelling" means a residential unit used on a full-time or part-time basis;
- i) "farmer" means the owner or operator of an agricultural operation;
- j) "firearm" means a pellet gun, paint ball gun, shotgun, muzzle loader, bow, cross bow, or rifle with a maximum calibre of .275.
- k) "H.E.P.C. " means Hydro Electric Power Corridor;
- l) "highway" means a common and public highway and includes a street, public land and road allowance and any bridge, trestle, viaduct or structure that forms part of a highway and all lands between the lateral boundaries;
- m) "hunting license" means an instrument issued under the Fish and Wildlife Conservation Act conferring upon the holder the privilege of the actions set forth in it, subject to the conditions, limitations and restrictions contained in the Act and its regulations;
- n) "indoor firing range" means a firing range located in the Town of Whitby that has the primary purpose of distributing firearms directly to retail outlets, military and law enforcement agencies and uses the indoor firing range as a means to test firearms;
- o) "minister" means the Minister of Natural Resources for the Province of Ontario;
- p) "park" means a recreational area that is open to the general public for permitted recreational uses, and includes a picnic area or sports field;
- q) "paint ball gun" means a firearm that is an air sprung gun that propels a projectile by compressed air and is used as apparatus for paint ball gaming or air soft gaming;
- r) "person" means an individual, firm, company, corporation, association or partnership;
- s) "police officer" means a member of the Durham Regional Police Service or other Ontario Policing Authority;

- t) "recreational trail" means a property that is open to the general public for permitted recreational trail uses, and includes any bridge, trestle, viaduct or structure that forms part of a trail and all lands between the lateral boundaries;
- u) "rural area" means the portion of the Town that is outside the urban area designated in the attached schedule;
- v) "school" includes an elementary, secondary school, community college, university or other post-secondary institution, and any private school or college;
- w) "Town" means The Corporation of the Town of Whitby and its geographical boundaries;
- x) "trapper" means a person licensed by the Ministry of Natural Resources in accordance with the Fish and Wildlife Conservation Act and Regulations to hunt and trap furbearing mammals.
- y) "urban area" means the portion of the Town that is within the urban area designated in the attached schedule.

2. INTERPRETATION

- 2.1 The regulations established by this by-law apply to the discharge of firearms on all lands and waters within the boundaries of the Town;
- 2.2 The attached Schedules "A" and "B" form part of this by-law;
- 2.3 Nothing in this by-law shall be interpreted as reducing or eliminating the need for full compliance with the provisions of all applicable Federal and Provincial statutes and regulations relating to firearms.

3. REGULATIONS

Urban Area

- 3.1 No person shall discharge a firearm in the urban area of the Town.

Rural Area

- 3.2 No person shall discharge a firearm in the rural area of the Town:
 - 3.2.1 on any property owned or occupied by the Town of Whitby;
 - 3.2.2 on or within 100 metres of any property used for the purposes of a school, place of worship, day nursery, community recreation centre, or park;
 - 3.2.3 within 300 metres of any conservation area;
 - 3.2.4 within 100 metres of any dwelling, other than a dwelling owned or lawfully occupied by the person discharging the firearm, or with the

express written permission of the owner or lawful occupier of the property;

3.2.5 on, across or within 8 metres of any highway, private road or recreational trail;

Compliance

3.3 No person shall discharge a firearm on any property on which the discharge of firearms is permitted unless he or she is in compliance with the provisions of the (Canada) Criminal Code; the (Canada) Firearms Act and all other federal requirements relating to firearms.

3.4 No person shall discharge a firearm on any property on which the discharge of firearms is permitted unless he or she is:

3.4.1 the owner or lawful occupier of the property, or

3.4.2 has the express written permission of the owner or lawful occupier of the property in accordance with the provisions of the (Ontario) Trespass to Property Act.

4. GENERAL

4.1 The discharge of a firearm is permitted in the Town of Whitby in the unshaded areas shown on Schedule A attached to and forming part of this by-law and as are more particularly described in Schedule B attached and forming part of this by-law, in compliance with Section 3 of the by-law;

4.2 Permitted firearms in the Town of Whitby include:

- pellet gun
- paint ball gun
- shotgun
- muzzle loader
- bow
- cross bow
- rifle with a maximum calibre of .275

4.3 The discharge of firearms is permitted on Sundays on private land during provincially regulated seasons.

4.4 The discharge of a firearm on property other than the owner's property shall require annual written permission from the owner or lawful occupier as outlined in Section 3.4.2.

5. EXEMPTIONS

- 5.1 Despite the provisions of section 3. of this by-law, nothing in this by-law shall serve to prohibit the discharge of a firearm by:
- 5.1.1 a person who believes on reasonable grounds that wildlife is damaging or is about to damage the person's property as described under the Fish and Wildlife Conservation Act;
 - 5.1.2 a farmer, or any member of a farmer's family who resides with the farmer, or an agent of the farmer as prescribed under the Fish and Wildlife Conservation Act, or any successor legislation thereto, for the purpose of protecting the farmer's property;
 - 5.1.3 a member of the Durham Regional Police Service or any other police officer during the performance of his/her duties as a police officer;
 - 5.1.4 an animal control officer during the performance of his/her duties as an animal control officer;
 - 5.1.5 a conservation officer during the performance of his or her duties as a conservation officer;
 - 5.1.5 a person at an indoor test range facility that distributes firearms directly to retail outlets, military and law enforcement agencies, subject to all persons therein complying at all times with all applicable law including, without limitation, the Firearms Act, S.C. 1995, c.39 and no firearm shall be discharged except entirely within the enclosed building of the indoor test range at a location that is zoned for this purpose;

6. SCHEDULES

- 6.1 Urban Boundary Map – Schedule A (includes 300 m buffer)
- 6.2 Urban Boundary Description – Schedule B

7. ENFORCEMENT AND PENALTIES

- 7.1 Police Officers employed by the Durham Regional Police Service and, where appropriate, the Town's By-Law Enforcement officers are responsible for enforcing the provisions of this by-law.
- 7.2 An officer may enter upon land at any reasonable time for the purpose of enforcing the by-law or carrying out an inspection to determine compliance with the by-law.
- 7.3 Any person who contravenes any of the provisions of this by-law is guilty of an offence; and, upon conviction is subject to a fine as provided in the (Ontario) Provincial Offences Act, and to any other applicable penalties.

7.4 For the purpose of subsection 7.3 an offence is a subsequent offence if there has been a previous conviction under this by-law as prescribed by the Provincial Offences Act, R.S.O. 1990, C. P.33, as amended, or any successor legislation thereto.

8. SHORT TITLE

8.1 This by-law may be referred to as the Discharge of Firearms By-law.

9. REPEAL OF EXISTING BY-LAW

9.1 By-law No. 6646-12 is repealed in its entirety.

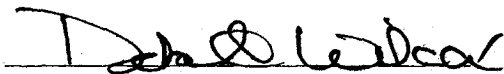
10. VALIDITY

10.1 If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, the same shall not affect the validity of the by-law as a whole or any part thereof, other than the part which was declared to be invalid.

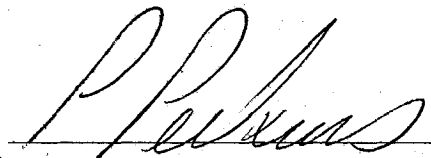
11. EFFECTIVE DATE

11.1 This by-law shall come into force and take effect on the date of the final passing.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 7th DAY OF OCTOBER, 2013.



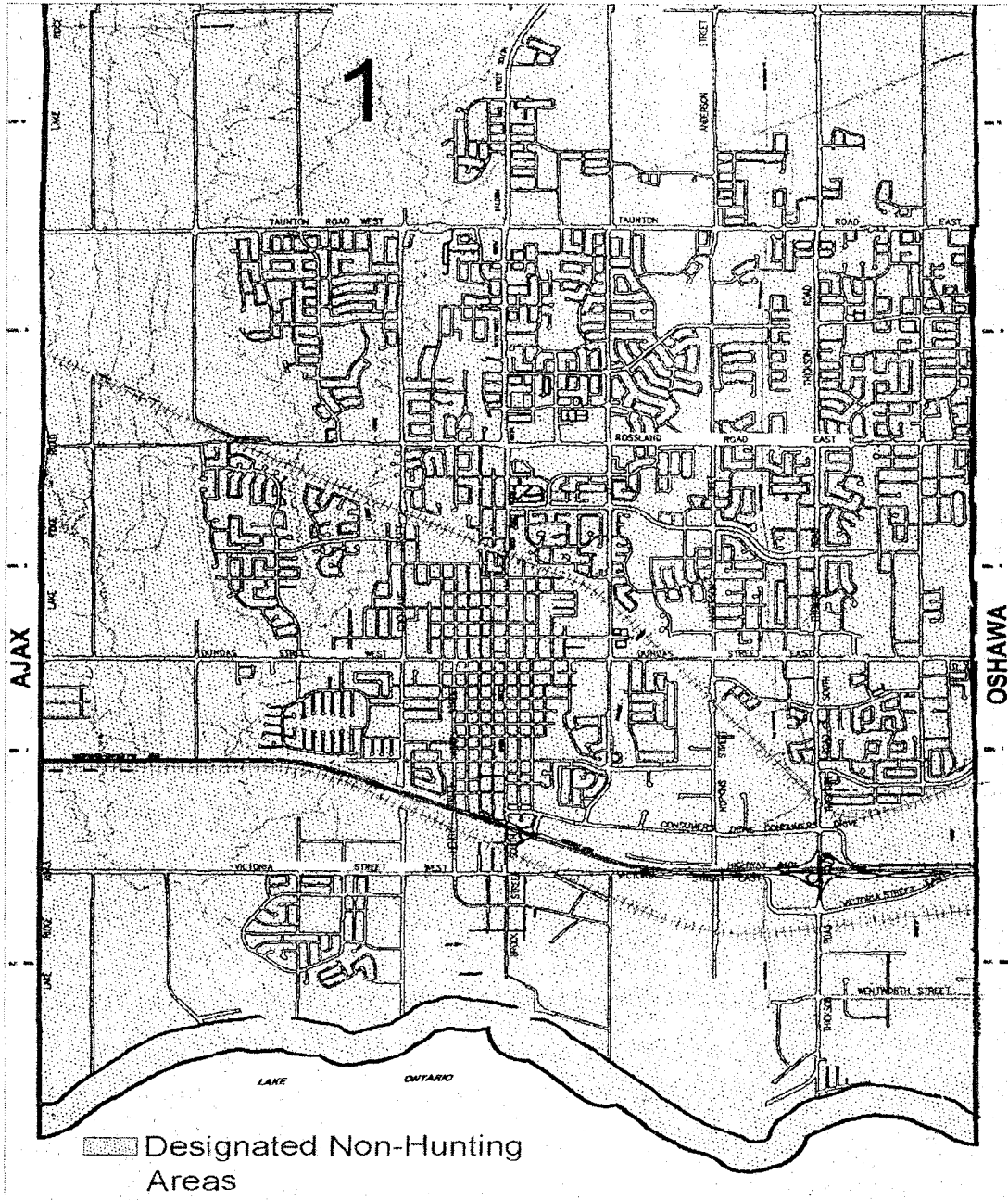
Debi A. Wilcox, Town Clerk



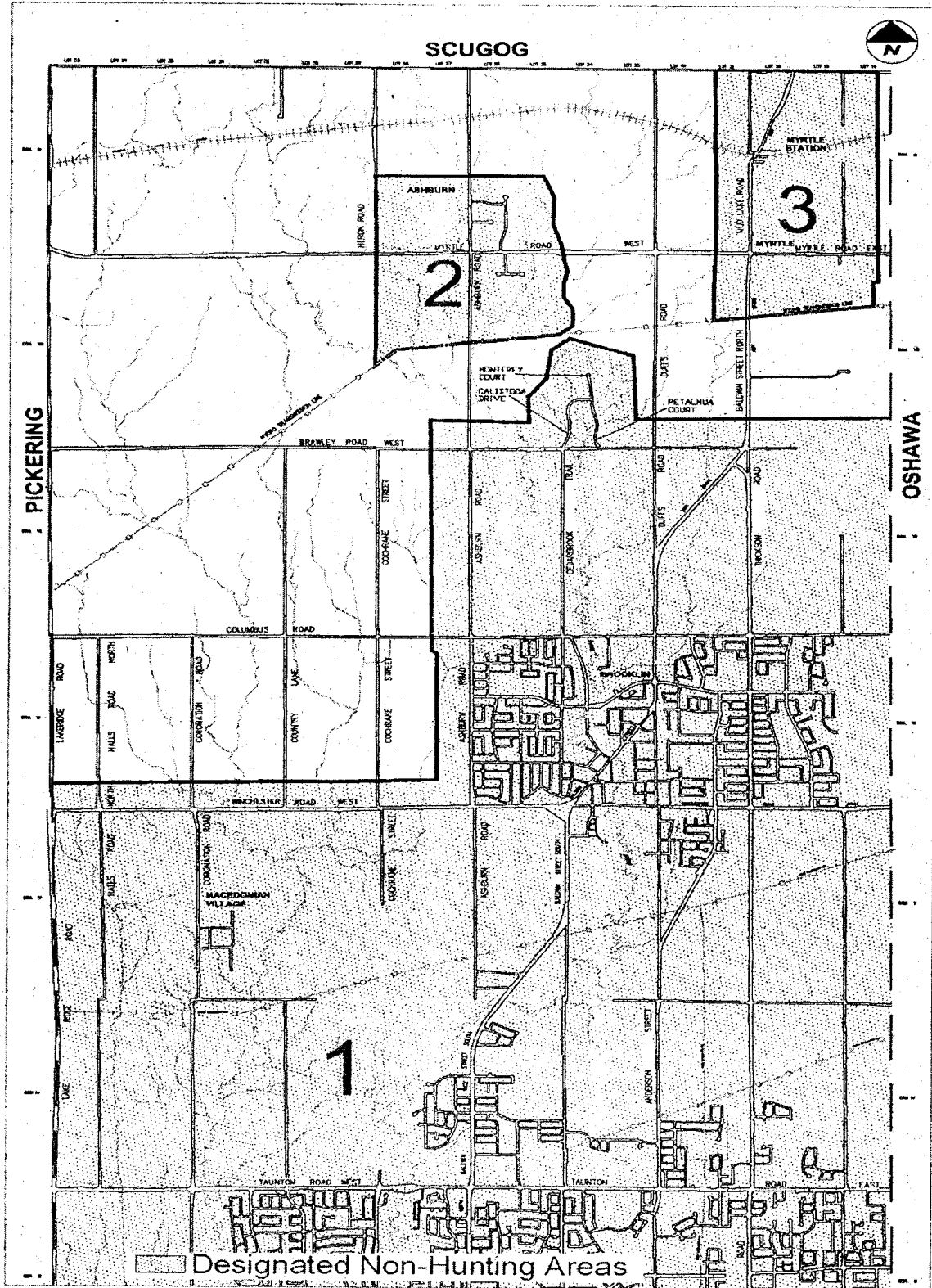
Patricia Perkins, Mayor

The areas of the Town of Whitby which are not shaded in dots on the Map attached as part of Schedule A are designated as hunting areas in the Town. Hunting is permitted in accordance with Section 3 of the by-law.

SCHEDULE 'A'
TO
BY-LAW No. 6780-13



The areas of the Town of Whitby which are not shaded in dots on the Map attached as part of Schedule A are designated as hunting areas in the Town. Hunting is permitted in accordance with Section 3 of the by-law.



Schedule B.

The following description of lands constitutes the boundaries of the defined areas which are shaded with dots on the Map attached as Schedule A and designate as urban areas. The Discharge of Firearms is only permitted outside of the defined urban area shaded with dots and in accordance with Section 3 of the by-law.

1. Commencing at a point 300 metres south of the shoreline of Lake Ontario in the southeast corner of Lot 18, Broken Front Concession;

Thence travelling north along the boundary line between the City of Oshawa and the Town of Whitby to a point 300 metres north of the unopened road allowance at the northerly limit of Brawley Road West;

Thence travelling west along such point 300 metres north of the limit of Brawley Road West to a point 300 metres east of the southerly limit of Petaluma Court;

Thence travelling north to a point 300 metres east of the northern most point of Monterey Court;

Thence travelling north and west at a distance of 300 metres around such boundary of Monterey Court;

Thence travelling south along such line 300 metres west of Monterey Court and Calistoga Drive;

Thence travelling west along such point 300 metres west of Calistoga Drive and 300 metres north of Brawley Road West;

Thence travelling west to a point 300 metres west of the westerly limit of Ashburn Road;

Thence travelling south along such point west of Ashburn Road to a point 300 metres north of the northerly limit of Winchester Road West;

Thence travelling west along such point north of Winchester Road West to Lakeridge Road;

Thence travelling south along the easterly boundary of Lakeridge Road to a point 300 metres south of the shoreline of Lake Ontario; and,

Thence easterly following a line running parallel to and a distance of 300 metres south of the shoreline of Lake Ontario to the point of commencement.

2. Commencing at the northeast corner of the intersection of Heron Road and Myrtle Road West (Regional Road 5) inclusive of a 300 metre buffer;

Thence travelling south between Lots 28 and 29, Concession 8, to the northerly limit of the H.E.P.C right-of-way inclusive of a 300 metre buffer;

Thence travelling east along the northerly limit of the H.E.P.C. right-of-way, crossing Ashburn Road, to the westerly limit of Lynde Creek inclusive of a 300 metre buffer;

Thence travelling north along the westerly limit of Lynde Creek to a point 805 metres north of the northerly limit of Myrtle Road West inclusive of a 300 metre buffer;

Thence travelling west from such northerly point to the easterly limit of Heron Road inclusive of a 300 metre buffer; and

Thence travelling south along the easterly limit of Heron Road to the point of commencement.

3. Commencing at the northeast corner of the intersection of Baldwin Street (Highway No.'s 7 and 12) and the H.E.P.C right-of-way as it passes through Concession 8, inclusive of a 300 metre buffer;

Thence travelling easterly along the northerly limit of the H.E.P.C. right-of-way to the westerly limit of the unopened road allowance between Lots 18 and 19, Concession 8 inclusive of a 300 metre buffer;

Thence travelling northerly along the westerly limit of the unopened and opened road allowance between Lots 18 and 19, Concessions 8 and 9 inclusive of a 300 metre buffer, to the boundary line between the Township of Scugog and the Town of Whitby;

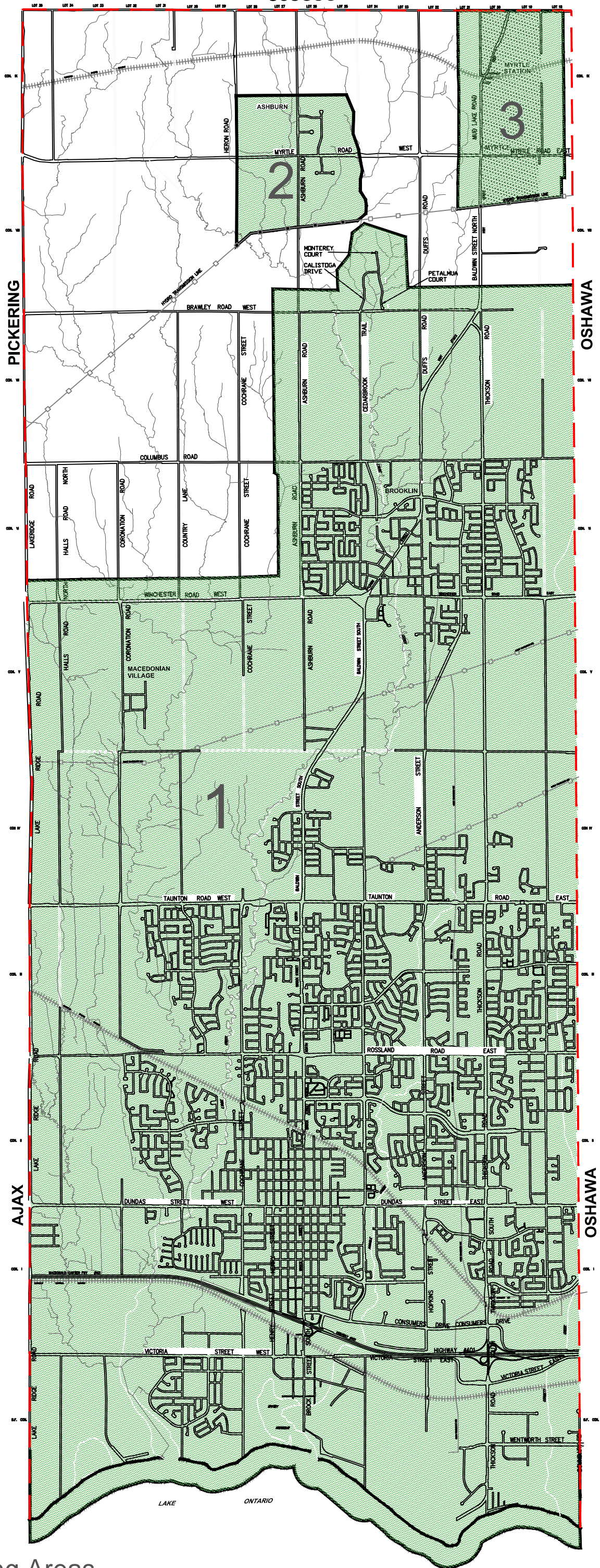
Thence travelling westerly along the boundary line between the Township of Scugog and the Town of Whitby to a point 300 metres west of the easterly limit of Mud Lake Road;

Thence travelling south along such point to the northerly limit of the H.E.P.C. Right-of-Way;

Thence travelling east along the northerly limit of the H.E.P.C. Right-of-Way to the point of commencement.

SCHEDULE 'A'
TO
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SCUGOG



 Designated Non-Hunting Areas