THE CORPORATION OF THE TOWNSHIP OF MELANCTHON

BY-LAW 48 - 2026

A By-law Regulating the Setting of Open-Air Fires, including Establishing the Times During which Open-Air Fires may be Set.

WHEREAS pursuant to section 9 of the *Municipal Act*, 2001 S.O. 2001, chapter 25 a municipality has the capacity, rights, powers, and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS section 128 of the *Municipal Act*, 2001 S.O. 2001, chapter 25 provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council are or could become public nuisances;

AND WHEREAS sections 425, 426 and 429 of the *Municipal Act*, 2001 S.O. 2001, chapter 25, states a municipality may pass By-laws providing that a person who contravenes a By-law of the municipality passed under this Act is guilty of an offence, no person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this Act or under a By-law passed under this Act and a municipality may establish a system of fines for offences under a By-law of the municipality passed under this Act;

AND WHEREAS pursuant to section 7.1 (1) of the *Fire Protection and Prevention Act*, 1997, c.4, as amended states that a Council of a municipality may pass By-laws regulating fire prevention, including the prevention of the spreading of fires and to regulate the setting of open-air fires, including establishing the times during which open-air fires may be set;

AND WHEREAS Section 7.1(3) of the *Fire Protection and Prevention Act, 1997,* S.O. 1997, c. 4, as amended, provides that a By-law under this section may deal with different areas of the municipality differently;

AND WHEREAS Section 7.1(4) of the *Fire Protection and Prevention Act, 1997,* S.O. 1997, c. 4, as amended, provides that a municipality may appoint an officer to enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether By-laws enacted in accordance with Section 7.1 are being complied with;

AND WHEREAS Section 19(2) of the *Fire Protection and Prevention Act, 1997,* S.O. 1997, c. 4, provides an inspector may, without a warrant, enter and inspect land and premises for the purposes of assessing fire safety;

AND WHEREAS Article 2.4.4.4. of the *Ontario Fire Code O. Reg. 213/07,* as amended, provides that open-air fires shall not be permitted unless approved, or unless such burning consists of a small, confined fire supervised at all times, and used to cook food on a grill, barbeque or spit, or such burning takes place in an appliance that is in conformance with the *Technical Standards and Safety Act, 2000*, S.O. 2000, c.16, is for outdoor use, and is assembled and/or installed in accordance with the manufacturer's instructions;

AND WHEREAS Section 391 of the *Municipal Act, 2001,* S.O. 2001, c. 25, provides that a municipality and a local board may pass By-laws imposing fees or charges for services or activities provided or done by or on behalf of it, or for costs payable by it for services or activities provided or done by or on behalf of any other municipality or local board;

AND WHEREAS Section 425 of the *Municipal Act, 2001,* S.O. 2001, c. 25, provides By-laws may be passed by all municipalities for providing that any person who contravenes any By-law of the municipality, passed under this Act, is guilty of an offence;

AND WHEREAS Section 446 of the *Municipal Act, 2001,* S.O. 2001, c. 25, provides that where the municipality has the authority by any Act or under a By-law to direct or require a person to do a matter or thing, the municipality may also provide that, in default or it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense, and the municipality may recover the costs of doing the matter or thing from the person required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

AND WHEREAS Council now deems it expedient to enact a By-law for regulating the setting of open-air fires, including establishing the times during which open-air fires may be set;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF MELANCTHON HEREBY ENACTS AS FOLLOWS:

1. DEFINITIONS

1. In this By-law:

(a) *"Approved"* means approved by the Chief Fire Official;

(b) "Barrel/Drum" means a metal barrel/drum with a capacity not greater than 55 gallons (205 liters). This type of container is permitted under Section 5 "Brush Fires" and issued in accordance with this By-law;

(c) *"Brush"* means branches, limbs, stumps or part thereof;

(d) *"Building"* means any structure used or intended for supporting or sheltering any use or occupancy;

(e) *"Campfire"* means a small fire for cooking, warmth or entertainment as a campsite or residential property that meets the requirements of this By-law;

(f) *"Campground"* means an area of land owned or operated that contains camp sites for the purpose of providing overnight accommodation for tents and trailers;

(g) "*Chief Fire Official*" means the Chief Fire Official or designate as defined in the Ontario Fire Code (O. Reg. 213/07);

(h) *"Controlled (Prescribed) Fire"* means a deliberately set, carefully planned, and controlled fire that consumes ground-level fuels such as dried leaves, cured grass, needles, and fallen or downed woody debris. The practice is a widely used and recognized scientific method used to help restore ecosystems that depend on fire, reduce the risk of out-of-control wildfire, and increase community and firefighter safety;

(i) *"Council"* means the Council of the Township of Melancthon;

(j) "*Dangerous Conditions*" means:

i. A lack of precipitation which increases the risk of the spread of fire,

ii. Wind speeds which, in the opinion of the Chief Fire Official, increase the spread of fire, or

iii. Any other condition declared by the Chief Fire Official to be a dangerous condition, from time to time, which increases the risk of the spread of fire;

(k) "*Equipment and Resources*" means sufficient personnel and equipment such as rakes, shovels, backhoes, bulldozers, front-end loaders, and/or water on-site required to control a fire;

(l) "*Fire*" means any fire set in the open-air by any person within the boundaries of the Township;

(m) *"Fire Ban"* means a partial or total ban against any open-air fire as declared by the Chief Fire Official;

(n) *"Fire Department"* means an established fire department servicing the whole or part of the Township of Melancthon including but not limited to the Dundalk Fire Department, the Mulmur-Melancthon Fire Department and the Shelburne & District Fire Department;

(o) "*Fire Risk Rating*" means a scale used to inform the public of the risk of fire. Fire risk rating is based on the Fire Weather Index along with fuel type and fuel load. The fire risk ratings include:

i. Low: means fires may start easily and spread quickly but there will be minimal involvement of deeper fuel layers or larger fuels

ii. Moderate: means forest and wildland fuels are drying and there is an increased risk of surface fires starting. Carry out any forest activities with caution

iii. High: means forest and wildland fuels are very dry and the fire risk is serious. New fires may start easily, burn vigorously, and challenge fire suppression efforts. Extreme caution must be used in any forest activities. Open-air fires and industrial activities may be restricted; and

iv. Fire Ban: means extremely dry forest and wildland fuels, the fire risk is very serious. New fires will start easily, spread rapidly, and challenge fire suppression efforts. No open-air fire are permitted;

(p) *"Fully Extinguished"* means the fire has no more visible flame, smoke or other signs of combustion and is cold to the touch;

(q) "*Highway*" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

(r) *"Inspection"* means a physical examination to determine that the proposed fire location and/or device or system will meet the requirements of this By-law;

(s) *"Ontario Fire Code"* means O. Reg. 213/07 made under the Fire Protection and Prevention Act 1997, S.O. 1997.c.4, as amended;

(t) *"Officer"* means a municipal By-law enforcement officer, provincial offences officer or police officer or a person designated by the local municipality for the enforcement of open air fires;

(u) *"Open-air fire"* means any fire or burning practice, including fire in a smoldering state that is conducted outdoors;

(v) "*Outdoor Fire Container*" means a small non-combustible container used to contain a small fire and includes, but is not limited to, chimineas, metal tubs, stone surround fire pits and outdoor brick fireplaces;

(w) *"Permit"* means the permit issued by the Township signifying permission to set a fire and establishing the conditions under which the permit is granted;

(x) *"Person"* means any individual, association, firm, partnership, agent or trustee and their heirs, executors, or other legal representation of a person;

(y) "*Property*" means a parcel of land which is capable of being legally conveyed;

(z) *"Prohibited Materials"* means materials that are, but not limited to, automobile and truck bodies, tires, oil, grease, paint, rags, plastics, wire, asphalt, shingles, rubber, construction materials, insulation, household garbage, and flammable or combustible liquids or accelerants; or any other material designated as hazardous in any legislation enacted by the Provincial and Federal Governments;

(aa) "*Responsible Person*" means the person or persons who starts the fire, directs the fire to be set, authorizes fires to be set, controls or oversees the fire;

(bb) "*Sacred Fire*" is a fire lit and maintained for indigenous ceremonial, spiritual, cultural or community purposes, typically under specific cultural procedures;

(cc) "*Special Air Quality Statement*," "*Smog and Air Health Advisory*" and "*Air Quality Health Index*" (AQHI 7 or Higher) are a public health warning issued through the media by the Ontario Ministry of the Environment, Conservation and Parks during periods of deteriorated air quality;

(dd) *"Special Event"* means an organized event attended by more than 50 people within a given day, regardless of whether admission is charged, the event is private or public, non-profit or commercial, that:

i. is conducted on public and/or private land or on a *highway* within the Township;
ii. shall include but not be limited to: sporting and leisure events, weddings, fundraisers, garage sales, flea markets, concerts, festivals and community gatherings;

(ff) *"Township"* means the Corporation of the Township of Melancthon and all lands within the geographical boundaries of the Township.

2. GENERAL PROVISIONS

2.1 No person being the owner or tenant in possession of land within the Township shall cause or allow a fire to be set on such land unless a permit has been issued by the Township in respect of that fire.

2.2 In the absence of being issued a permit, an owner shall be deemed to have allowed an open-air fire, and the owner assumes all responsibility and liability where a fire has been set or allowed to burn.

2.3 Every person setting, allowing to be set, maintaining, or allowing to be maintained, an open-air fire authorized under this part shall have legal title to the property to which an open-air fire is to occur, or the person, or Permit holder, shall obtain the prior written consent of the person having legal title to the property.

2.4 Every person setting, allowing to be set, maintaining, or allowing to be maintained, an open-air fire authorized under this part shall allow, at reasonable times, Fire Department staff to inspect the location or proposed location of the open-air fire.

2.5 Notwithstanding any provisions herein, no person shall cause or allow a fire to be set:

(a) in contravention of the Ontario Fire Code, the Environmental Protection Act, or any other law, ordinance, code, or statutory requirements of the Township, the Province of Ontario or the Government of Canada;

(b) on any highway, or other public property within the Township;

(c) in any park owned or operated by the Township without the written permission of the Township;

(d) in the front or side yard of any commercially or industrially zoned property within the Township;

(e) where the consumption of material will exceed the limit set by the Chief Fire Official;

(f) unless the equipment and resources designated on the permit are always available at the fire site during the fire;

(g) with the aid of flammable or combustible liquids or accelerants of any kind;

(h) unless the person is at least eighteen (18) years of age, and attends the fire in the capacity of the responsible person and in a supervisory capacity at all times until such time the fire has been completely extinguished;

(i) during construction within a subdivision or on any construction site within the Township;

(j) in any outdoor fireplace or any other burning appliance unless the same is approved by the Chief Fire Official;

(k) that includes prohibited materials, or

(l) that includes material that is normally collected under the Township's waste or recycling programs.

2.6 No person shall cause or allow a fire to cause a dangerous condition or increase the likelihood of any of the following:

(a) smoke or fire damage to property;

(b) a decrease in visibility on any highway;

(c) odour or smoke to cause discomfort to people, hazards to health, or loss of enjoyment of normal use of property in the immediate area. Obtaining authorization to have an open-air fire does not relieve an owner of the obligation to ensure that smoke does not interfere with the ability of the owner's neighbours to enjoy their property or conduct their business without disruption; or

(d) a spread of fire through grass or brush area beyond its unintended limits.

2.7 All people conducting open-air fires shall ensure that all fires are fully extinguished before the site is vacated.

2.8 No person shall set, maintain or allow open air burning when the wind is in such direction or of such intensity to reduce the visibility on any highway or structure or cause an adverse effect or risk of fire spread.

2.9 No person shall set, maintain or allow open air burning when the Township is under a Special Air Quality Statement or Smog and Air Health Advisory or the Air Quality Health Index (AQHI) is 7 or higher.

2.10 No person shall cause or permit a fire to be set at times when a fire ban has been issued by the Chief Fire Official as per the fire risk rating.

2.11 A permit issued under this section is valid on the date of issue and for the balance of the calendar year in which the permit was issued.

3. EXEMPTIONS

3.1 The Fire Department shall be exempt from the provisions of this By-law with respect to open-air fires for the purpose of training, educating individuals in fire safety or for research purposes.

3.2 The Township shall be exempt from the provisions of this By-law with respect to open-air fires related to municipal works.

3.3 Professional fire prevention trainers shall be exempt from the provisions of this By-law with respect to open-air fires set for the purposes of fire safety training pursuant to Section 2.8.2.1. of the Ontario Fire Code.

3.4 The burning consists of a small, confined fire always supervised and used to cook food on a grille or barbeque;

3.5 A sacred fire;

3.6 Commercially produced gas fired appliances conforming to the applicable Canadian Standards Association (CSA) codes and standards;

3.7 An incinerator operated in accordance with the Certificate of Approval issued pursuant to the Environmental Protection Act, R. S.O. 1990, c. E. 19 and regulations there under;

3.8 Properties lawfully zoned to permit a campground;

3.9 All other provisions of this By-law shall apply.

4. OUTDOOR FIRE CONTAINERS

4.1 A person conducting an open-air fire in an outdoor fire container shall comply with the following conditions:

(a) shall only conduct the open-air fire between sunrise and midnight;

(b) shall only use an outdoor fire container that is constructed of non-combustible materials;

(c) shall not burn or attempt to burn a volume of combustible materials greater than 2 feet (61 cm) in length by 2 feet (61 cm) in width by 2 feet (61 cm) in height;

(d) shall always contain the fire within the outdoor fire container burning only dry firewood;

(e) shall locate the outdoor fire container at least 5 meters (16.4 feet) from any building, structure, property line, hedge, fence, highway, overhead wire or other combustible article; and

(f) shall locate the outdoor fire container on a non-combustible surface extending beyond the unit in all directions a minimum of 1 foot (30 cm).

4.2 Open-air fires within outdoor fire containers shall be attended, controlled and always supervised and shall be completely extinguished before the burn site is vacated.

5. BRUSH FIRES

5.1 A person conducting an open-air brush fire shall comply with the following conditions:

(a) the material to be burned in an open-air brush fire shall be no more than 1.2 meters (4 feet) or less in length, width and height or in a burning barrel/drum;

(b) shall locate the open-air brush fire at a distance of 15 meters (50 feet) from any building, structure, property line, hedge, fence, highway, overhead wire or other combustible article; and

(c) shall ignite and extinguish the fire between sunrise and sunset of the same day.

5.2 Brush fires shall be attended, controlled and always supervised and shall be completely extinguished before the burn site is vacated.

6. AGRICULTURAL LAND FIRES

6.1 A person may conduct an open-air fire if they are part of a normal farm practice carried on as part of an agricultural operation, as those defined in the Farming and Food Production Act, 1998, S.O. 1998, c.1, on lands zoned for agricultural use, and subject to the conditions set out in this part.

6.2 A person conducting an open-air fire in an open field shall comply with the following conditions for an open-air fire on agricultural lands;

(a) the material to be burned in an open field will be no more than 3 meters (10 feet) or less in length, width and height;

(b) shall locate the open-air fires at least 30 meters (100 feet) away from any building, structure, property line, hedge, fence, highway, overhead wire or combustible article;

(c) shall ignite and extinguish the fire between sunrise and sunset of the same day;

(d) shall notify the Fire Communications Centre (Fire Comm) by telephone (800-511-9911) prior to the open-air fire and at the conclusion of the open-air fire and shall provide their permit number and municipal address; and

(e) failure to notify the Fire Communications Centre (Fire Comm) prior to, or at the conclusion of, any open-air fire which results in response to the incident may result in fines as per the Establishing Tariff of Fees for Fire Department Services By-law (per truck response).

6.3 Agricultural land fires shall be attended, controlled and always supervised and shall be completely extinguished before the burn site is vacated.

7. SPECIFIC EVENTS OR CONTROLLED FIRES

7.1 All people seeking permission to hold a special event or controlled fire involving an open-air fire that is not governed within Sections 4, 5 and 6 shall apply in writing to the Chief Fire Official. A "burn plan" which contains an assessment of the risks and safety precautions that will be taken shall be included with the request.

7.2 Any person eighteen (18) years of age or older may make written application for an open-air fire permit prior to the proposed date of the first open-air fire.

7.3 The application shall include:

(a) the name, address and phone number of the applicant;

(b) the owner's written consent to the open-air fire, if the applicant is not the owner of the property;

(c) the municipal address of the location of the proposed open-air fire if it differs from the address of the applicant;

(d) the municipal address number posted; and

(e) the applicable permit fee as set out in the By-law to Establish Fees and Charges, as amended from time to time.

7.4 A permit issued under this section is only valid for the dates specified on the permit.

7.5 The Chief Fire Official may revoke a permit if, in the opinion of the Chief Fire Official, a dangerous condition exists in or near the site of the open-air fire.

7.6 The Chief Fire Official may revoke a permit if the permit holder fails to comply with the requirements of the permit and any other provisions of this By-law.

7.7 Permits that have been revoked by the Chief Fire Official for failure to comply with the requirements of the permit and any other provisions of this By-law will be subject to an inspection of the site at the owner's expense before the permit can be reinstated.

8. APPLICATION FOR AN OPEN-AIR FIRE PERMIT

8.1 Any person eighteen (18) years of age or older may make written application for an open-air fire permit to the Township prior to the proposed date of the first open-air fire.

8.2 The application shall include:

(a) the name, address and phone number of the applicant;

(b) the owner's written consent to the open-air fire, if the applicant is not the owner of the property;

(c) the municipal address of the location of the proposed open-air fire if it differs from the address of the applicant;

(d) the municipal address number posted;

(e) signed the Release and Indemnity form at the time of making the application for this permit; and

(f) the applicable open-air fire permit fee as set out in the By-law to Establish Fees and Charges , as amended from time to time.

9. REVOCATION

9.1 Permits issued to a permit holder under this By-law may be revoked by the Chief Fire Official if, in the opinion of the Chief Fire Official, a dangerous condition exists in or near the site of the open-air fire.

9.2 Permits issued to a permit holder under this By-law may be revoked by the Chief Fire Official if the permit holder fails to comply with the requirements of the permit and any other provisions of this By-law.

9.3 Permits that have been revoked by the Chief Fire Official for failure to comply with the requirements of the permit and any other provisions of this By-law will be subject to an inspection of the site at the owner's expense before the permit can be reinstated.

10. ENFORCEMENT

10.1 Every person who contravenes any provision of this By-law, including failing to comply with a Permit, Order, Notice, direction or requirement issued under this By-law, and every director or officer of a corporation who knowingly concurs in the contravention by the corporation, is guilty of an offence.

10.2 Every person who is convicted of an offence under this By-law is liable to pay a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended.

10.3 No person shall hinder or obstruct, or attempt to hinder or obstruct, the Fire Department staff, Chief Fire Official, Officer, or any person acting under authority of this By-law in the lawful exercise of power or performance of a duty under this By-law.

10.4 Where a contravention of this By-law continues for more than one day, each day that the contravention continues shall constitute a separate offence.

10.5 The Chief Fire Official or Officer may order a fire to be extinguished immediately if the fire is:

(a) not set in compliance with this By-law; or

(b) determined upon *inspection* by the Chief Fire Official or Officer to constitute a safety hazard or concern.

10.6 Should the Fire Department determine that a fire has been started/set that does not conform to the provisions of this By-law, and/or could pose a safety hazard or concern, the Owner shall be responsible for the costs of response as outlined in the Establishing Tariff of Fees for Fire Department Services By-law.

10.7 Costs associated with enforcement of this By-law, including but not limited to costs incurred for extinguishing, controlling, inspecting, remedying, or otherwise addressing non-compliant fires, may be collected by adding the costs to the tax roll and collecting them in the same manner as property taxes.

11. ADMINISTRATION

11.1 This By-law shall be administered by the Chief Fire Official and shall be enforced by the Chief Fire Official and Officers, Assistants to the Fire Marshal, or such other persons as Council may designate.

11.2 Where, in the opinion of the Chief Fire Official, a potential fire danger exists, the Chief Fire Official may suspend, refuse or rescind any permit or order any person to extinguish a fire.

11.3 The provisions of this By-law shall apply to all properties within the Township.

12. INDEMNIFICATION

12.1 Every *person* setting, permitting to be set, maintaining or permitting to be maintained, a fire authorized under any section of this By-law shall indemnify and save harmless the *Township* from any and all claims, demands, causes of action, loss, costs or damages that the *Township* may suffer, incur or be liable for resulting from the performance of the applicant as set out in this By-law, whether with or without negligence on the part of the applicant, the applicant's employees, directors, contractors and agents.

13. SEVERABILITY

13.1 If a court or any tribunal of competent jurisdiction declares any section or part of this By-law invalid, the remainder of this By-law shall continue in force unless the court or tribunal makes an order to the contrary.

14. SHORT TITLE

14.1 This By-law shall be known as the Open-Air Fire By-law.

15. REPEALS

15.1 That By-law No. 10-2007, being a By-law to regulate the setting of open-air fires, is hereby repealed.

16. EFFECT

16.1 This By-law shall come into force and effect on the passing thereof.

By-law read a first and second time this 5th day of November, 2026.

By-law read a third time and finally passed this 5th day of November, 2026.

Original Signed

Mayor

Original Signed

Clerk