

THE CORPORATION OF THE TOWNSHIP OF MELANCTHON

BY-LAW NUMBER 10-2007

BEING A BY-LAW TO REGULATE THE SETTING OF FIRES AND PREVENT
THE SPREADING OF FIRES, ESTABLISH A FIRE PERMIT SYSTEM

WHEREAS Section 210 (35) of the Municipal Act, R.S.O. 1990 c. M45, as amended, empowers the councils of the local municipalities to pass By-laws prescribing for the whole or any part of the municipality, the times during which fires may be set in open air and the precautions to be observed by persons setting such fires.

AND WHEREAS the Ontario Fire Code, O. Reg 67/87 Clause 2.6.3.4 states "Open air burning shall not be permitted unless approved or unless such burning consists of small, confined fire, supervised at all times and used to cook food on a grill or barbecue".

AND WHEREAS Section 7.1 of the Fire Protection and Prevention Act, S.O. 2002, c.4, as amended, provides the Council of a Municipality may pass By-laws for regulating the prevention of the spreading of fires and the setting of open air fires including times during which they may be set.

AND WHEREAS it is deemed necessary and expedient to pass such a By-law, for the protection of persons and property, within the Township of Melancthon.

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

1. INTRODUCTION

1.1. Title and Scope

- (a) This is a By-law to regulate the setting, prohibiting and controlling of open fires within the Township of Melancthon. This By-law shall be known as "Open Fires By-law" of the Township of Melancthon.

1.2. Repeal of Former By-laws

- (a) By-law No. 7-2003 of The Corporation of the Township of Melancthon is hereby repealed.

1.3. Validity and Severability

- (a) Should any section, sub-section, clause, paragraph, or provision of this By-law be declared by a court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability or any other provisions of this By-law or the By-law as a whole.

1.4. Interpretation

- (a) Words used in the singular form shall include the plural form, the masculine gender shall include the feminine or neuter gender, and vice versa, as the context requires.
- (b) "May" shall be construed as permissive.
- (c) "Shall" shall be construed as imperative.

1.5. Force and Effect

- (a) This By-law shall come into force and take effect on the day that it receives the approval of the Council of the Township of Melancthon.

2. DEFINITIONS

For the purposes of this By-law, the following words shall have the meaning ascribed herein:

- 2.1. "Council" means the Council of The Corporation of the Township of Melancthon.
- 2.2. "Environmentally Acceptable Waste" means clean wood and brush.
- 2.3. "Fire Ban Period" means a period of time during which the Fire Chief or his designate declares a total ban on open air burning.
- 2.4. "Fire Pit" means an area for an Open Air Fire, not exceeding one metre (3 feet) in diameter which is constructed of and created on non-combustible material containing combustible material not more than .5 metres (1.5 feet) in height, equipped with a grill and is being used for cooking of food.
- 2.5. "Hamlet Residential Property" means all property located within the boundaries of the hamlets of Riverview, Corbetton and Horning's Mills.
- 2.6. "Lot" shall mean a parcel of land to which title is capable of being legally conveyed, subject to the provisions of the Planning Act, as amended, and includes any of its parts, which are subject to a right-of-way or easement.
- 2.7. "Open Air Fire" means a fire that is not totally enclosed and controlled so as to prevent the spread of fire either directly or by sparks or embers originating from the fire.
- 2.8. "Owner" includes an assessed owner, tenant, or occupant or any person having an interest, whether equitable or legal, in the land.
- 2.9. "Permit" means a "Permit for Open Air Burning" issued by the Township.
- 2.10. "Person" means any human being, association, firm, partnership, private club, incorporated company, corporation, agent or trustee and the heirs, executors, or other legal representatives of a person to whom the context can apply according to the By-law.
- 2.11. "Rural Property" means all property located in the Township of Melancthon that is not included in "Hamlet Residential Property".
- 2.12. "Township" means The Corporation of the Township of Melancthon.

3. APPLICATION FOR PERMITS

- 3.1. A person requiring a permit for an open-air fire shall file an application in writing on the form as approved by the Township as found in Schedule "A" to this By-law;
- 3.2. An applicant shall provide all of the information required to complete the application form including, but not limited to the exact address that the Open-Air Fire is to be located;
- 3.3. Every application filed shall:
 - (a) be accompanied by the payment of the \$10.00 fee;
 - (b) be made by the Owner of the land on which the proposed Open-Air Fire is to be burned or his or her authorized agent and be accompanied by a consent from the Owner or his or her authorized agent of the lands upon which the Open-Air Fire is to be burned.
- 3.4. Permits issued under this By-law shall be valid for the duration of the calendar year of issue with an annual permit fee of \$10.00.

4. FIRE CONTROL

- 4.1. No Owner shall create or permit the creation, presence, maintenance or existence of any Open Air Fire within the Township of Melancthon.
- 4.2. Section 4.1 does not apply to any portable barbecue appliances.
- 4.3. Section 4.1 does not apply to small confined fires for the purpose of burning environmentally acceptable waste or fires used to cook food if they comply with the following conditions:
 - (a) Such fires shall be located no closer than 6 metres (20 feet) from any building, structure, hedge, fence, or overhead wire or obstruction of any kind;
 - (b) Such fires shall not exceed 1 metre (3 feet) in diameter or 1 metre (3 feet) in height;
 - (c) Sections 4.6.(b), 4.6.(f), 4.6.(g) shall not apply to fires burned pursuant to this section, all other subsections of Section 4.6 apply.
- 4.4. Section 4.1 does not apply to any Open-Air Fire for which a permit has been issued by the Township of Melancthon Municipal Office and the conditions as set out in Section 4.6 and Schedule "A" are being complied with.
- 4.5. The Permit described in Section 4.4 shall be produced upon request by the Fire Chief or his/her designate or a Municipal By-law Enforcement Officer for the Township of Melancthon.
- 4.6. No Owner who has been issued a Permit shall create or permit the creation, maintenance or existence of a fire unless all of the following conditions are being followed:
 - (a) The fire is under constant supervision and control from the time of lighting until it is totally extinguished;
 - (b) The fire is located no closer than 15 metres (50 feet) from any building, structure, hedge, fence, road or overhead wire or obstruction of any kind;
 - (c) There is a space free and clear of combustible material around the perimeter of such fire of at least 4.5 metres (15 feet);
 - (d) An Open Air Fire is not burned when a prohibition has been declared pursuant to Section 5.6 of this By-law;
 - (e) A fire is not burned when the wind velocity exceeds 16 km/hr (10 mph);
 - (f) The dimension of a fire does not exceed 3 metres (10 feet) in diameter or 2 metres (6 feet) in height for rural properties;
 - (g) The dimension of a fire does not exceed 1 metre (3 feet) in diameter or 1 metre (3 feet) in height for Hamlet Residential Properties;
 - (h) Fires will not be burned between the hours of 11:00 p.m. and 6:00 a.m.;
 - (i) The fire does not contain a tire or tires;
 - (j) The fire does not contain materials such as paint, asphalt material, and/or chemical wastes;
 - (k) No Open Air Fire will be burned when the conditions as such may cause any or all of the following:
 - (i) A decrease in visibility on any highway or other roadway;
 - (ii) Fire spread through grass, brush, forested area or other property that was not intended to be burned;

- (iii) A contravention of other municipal By-law, provincial or federal legislation;
 - (l) The respective fire station will be advised of the date and time the fire is to be burned;
- 4.7. The Owner shall abide by the following:
- (a) The Owner shall be completely responsible and liable for any damage resulting from said fire;
 - (b) The Owner shall be liable for the cost of any fire fighting equipment and personnel necessary and called in to extinguish the said fire;
 - (c) The Owner shall exercise due care and take the necessary precautions in connection therewith to avoid endangering persons and property in the vicinity thereof, and shall remain in constant attendance at such fire until the same is completely burned or extinguished.

5. ADMINISTRATION, ENFORCEMENT AND INSPECTION

- 5.1. This By-law shall be administered by the Fire Chief of the Township or such other person or persons as Council may, by By-law, appoint and all such persons shall be considered inspectors under the terms of the By-law.
- 5.2. The Fire Chief, Deputy Fire Chief, Assistant Deputy Fire Chief or Municipal Law Enforcement Officer(s) or such other person or persons as the Council of the Township of Melancthon may by appoint are hereby authorized to enforce the provisions of this By-law pursuant to the Provincial Offences Act, R.S.O. 1990, as amended and all such persons shall be considered inspectors under the terms of this By-law.
- 5.3. The Fire Chief or his/her designate may revoke any Permit where:
- (a) The holder of the Permit contravenes any conditions of said Permit;
 - (b) In the opinion of the Fire Chief the smoke formed from a fire or fires authorized by the Permit presents a nuisance to neighbouring inhabitants, or;
 - (c) For any other good and sufficient reason at the Fire Chief or his/her designate's sole discretion.
- 5.4. Where a Permit has been revoked under Section 5.3, the Fire Chief or his/her designate may refuse to issue another permit until he/she is satisfied that corrective actions have been or will be taken to prevent recurrence of the problem.
- 5.5. The Fire Chief or his/her designate is authorized to order any person to extinguish any fire or to cause such fire to be extinguished when there is a breach of any of the provisions of this By-law or where, in his/her opinion there is danger of such fire spreading or otherwise endangering life or property and the person shall comply with any such order.
- 5.6. The Fire Chief or his/her designate may declare a total prohibition against outdoor burning when in his/her opinion atmospheric conditions or local circumstances make such fires hazardous and every person shall comply with such prohibition.
- 5.7. An inspector under this By-law:
- (a) Has the power to enter upon and examine any yards, vacant lots, or grounds at any reasonable time or times; and
 - (b) May be accompanied by such other person or persons, as they deem necessary to properly carry out their duties under this By-law.
- 5.8. In the event any owner proposes to start or set a fire which is larger than the maximum size provided in Section 4.6 , such person shall contact the Fire Chief, or

his/her designate, to request a site inspection. If the Fire Chief or his/her designate deems it necessary to conduct an onsite inspection a fee as required by the Fire Chief in his/her sole discretion shall apply. The Fire Chief may or may not authorize the fire to be ignited, subject to such conditions as the Fire Chief or his/her designate may impose, issued in writing. The owner requesting permission for this authorization shall comply with all provisions of the permit.

6. OFFENCES

6.1. Every person who:

- (a) hinders, disturbs or obstructs any Inspector in carrying out their duties under this By-law, or;
- (b) contravenes the following provisions of this By-law: Sections 4.1, 4.5, 4.6, 5.5 is guilty of an offence and, upon conviction, is subject to a penalty as provided for in the Provincial Offences Act, R.S.O. 1990, as amended.

6.2. Each day that a situation as described in Section 6.1.(b) of this By-law is allowed to continue shall constitute a separate offence under this By-law and any Judge or Justice of the Peace adjudicating on such matter may assess a separate fine for each and every day that such situation has been allowed to continue.

6.3. Every person and an officer director, employee or agent of a corporation charged with committing an offence under this By-law is a party to the offence who;

- (a) actually commits it;
- (b) does or omits to do anything for the purposes of aiding any person to commit it, or
- (c) abets any person committing it. Where two or more persons form an intention in common to carry out an unlawful purpose, and to assist each other therein, each of those who knew or ought to have known that the commission of an offence under this By-law would be a probable consequence of carrying out the common purpose is a party to the offence.

7. ADDITIONAL REMEDY

7.1. Pursuant to the provisions of the Municipal Act, 2001, s. 446, as amended from time to time, the Township may cause any matter or thing be done upon the failure of the person being directed to do it, and the matter or thing shall be done at the person's expense.

7.2. For the purposes of the previous subsection, the Township may enter upon land at any reasonable time.


7.3. The Township may recover the costs of doing a matter or thing under this section from the person directed or 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.

7.4. The Township shall not be liable for any damage caused by its actions under this by-law.

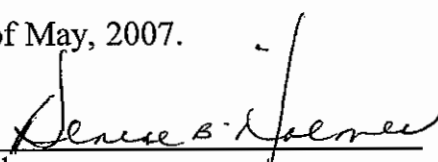
7.5. The Township shall not be liable to restore the property.

BY-LAW read a first and second time this 3rd day of May, 2007.

BY-LAW read a third time and passed this 3rd day of May, 2007.



Mayor



Clerk

SCHEDULE "A" TO BY-LAW NO. 10-2007

THE CORPORATION OF THE TOWNSHIP OF MELANCTHON

Fire Permit No: _____

EXACT LOCATION (Including Emergency Locator Number):

ISSUED TO (Name):

MAILING ADDRESS:

PHONE NUMBER: _____

APPLICATION FOR PERMITS

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An applicant shall provide all of the information required to complete the application form including, but not limited to the exact address that the Open-Air Fire is to be located;

Every application filed shall:

- a) be accompanied by the payment of the \$10.00 fee;
- b) be made by the Owner of the land on which the proposed Open-Air Fire is to be burned or his or her authorized agent and be accompanied by a consent from the Owner or his or her authorized agent of the lands upon which the Open-Air Fire is to be burned. Permits issued under this By-law shall be valid for the duration of the calendar year of issue with an annual permit fee of \$10.00.

FIRE CONTROL

No Owner shall create or permit the creation, presence, maintenance or existence of any Open Air Fire within the Township of Melancthon. The following exceptions apply:

- a) The above does not apply to any portable barbecue appliances;
- b) The above does not apply to small confined fires for the purpose of burning environmentally acceptable waste or fires used to cook food if they comply with the following conditions:
 - (i) Such fires shall be located no closer than 6 metres (20 feet) from any building, structure, hedge, fence, or overhead wire or obstruction of any kind;

- (ii) Such fires shall not exceed 1 metre (3 feet) in diameter or 1 metre (3 feet) in height;
- c) The above does not apply to any Open-Air Fire for which a permit has been issued by the Township of Melancthon Municipal Office and the conditions contained in the By-law are complied with.

The above permit shall be produced upon request by the Fire Chief or his/her designate or a Municipal By-law Enforcement Officer for the Township of Melancthon.

No Owner who has been issued a Permit shall create or permit the creation, maintenance or existence of a fire unless all of the following conditions are being followed:

- a) The fire is under constant supervision and control from the time of lighting until it is totally extinguished;
- b) The fire is located no closer than 15 metres (50 feet) from any building, structure, hedge, fence, road or overhead wire or obstruction of any kind;
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- f) The dimension of a fire does not exceed 3 metres (10 feet) in diameter or 2 metres (6 feet) in height for rural properties;
- g) The dimension of a fire does not exceed 1 metre (3 feet) in diameter or 1 metre (3 feet) in height for Hamlet Residential Properties;
- h) Fires will not be burned between the hours of 11:00 p.m. and 6:00 a.m.;
- i) The fire does not contain a tire or tires;
- j) The fire does not contain materials such as paint, asphalt material, and/or chemical wastes;
- k) No Open Air Fire will be burned when the conditions as such may cause any or all of the following:
 - i) A decrease in visibility on any highway or other roadway;
 - ii) Fire spread through grass, brush, forested area or other property that was not intended to be burned;
 - iii) A contravention of other municipal By-law, provincial or federal legislation;
- l) The respective fire station will be advised of the date and time the fire is to be burned;

The Owner shall abide by the following:

- a) The Owner shall be completely responsible and liable for any damage resulting from said fire;
- b) The Owner shall be liable for the cost of any fire fighting equipment and personnel necessary and called in to extinguish the said fire;
- c) The Owner shall exercise due care and take the necessary precautions in connection therewith to avoid endangering persons and property in the vicinity thereof, and shall remain in constant attendance at such fire until the same is completely burned or extinguished.

ADMINISTRATION, ENFORCEMENT AND INSPECTION

This By-law shall be administered by the Fire Chief of the Township or such other person or persons as Council may, by By-law, appoint and all such persons shall be considered inspectors under the terms of the By-law.

The Fire Chief, Deputy Fire Chief, Assistant Deputy Fire Chief or Municipal Law Enforcement Officer(s) or such other person or persons as the Council of the Township of Melancthon may by appoint are hereby authorized to enforce the provisions of this By-law pursuant to the Provincial

Offences Act, R.S.O. 1990, as amended and all such persons shall be considered inspectors under the terms of this By-law.

The Fire Chief or his/her designate may revoke any Permit where:

- a) The holder of the Permit contravenes any conditions of said Permit;
- b) In the opinion of the Fire Chief the smoke formed from a fire or fires authorized by the Permit presents a nuisance to neighbouring inhabitants, or;
- c) For any other good and sufficient reason at the Fire Chief or his/her designate's sole discretion.

Where a Permit has been revoked, the Fire Chief or his/her designate may refuse to issue another permit until he/she is satisfied that corrective actions have been or will be taken to prevent recurrence of the problem.

The Fire Chief or his/her designate is authorized to order any person to extinguish any fire or to cause such fire to be extinguished when there is a breach of any of the provisions of this By-law or where, in his/her opinion there is danger of such fire spreading or otherwise endangering life or property and the person shall comply with any such order.

The Fire Chief or his/her designate may declare a total prohibition against outdoor burning when in his/her opinion atmospheric conditions or local circumstances make such fires hazardous and every person shall comply with such prohibition.

An inspector under this By-law:

- a) Has the power to enter upon and examine any yards, vacant lots, or grounds at any reasonable time or times; and
- b) May be accompanied by such other person or persons, as they deem necessary to properly carry out their duties under this By-law.

In the event any owner proposes to start or set a fire which is larger than the maximum size provided in the by-law, such person shall contact the Fire Chief, or his/her designate, to request a site inspection. If the Fire Chief or his/her designate deems it necessary to conduct an onsite inspection a fee as required by the Fire Chief in his/her sole discretion shall apply. The Fire Chief may or may not authorize the fire to be ignited, subject to such conditions as the Fire Chief or his/her designate may impose, issued in writing. The owner requesting permission for this authorization shall comply with all provisions of the permit.

OFFENCES

Every person who:

- a) hinders, disturbs or obstructs any Inspector in carrying out their duties under this By-law, or;
- b) contravenes the applicable provisions of this by-law is guilty of an offence and, upon conviction, is subject to a penalty as provided for in the *Provincial Offences Act*, R.S.O. 1990, as amended.

Each day that a situation as described above is allowed to continue shall constitute a separate offence under this By-law and any Judge or Justice of the Peace adjudicating on such matter may assess a separate fine for each and every day that such situation has been allowed to continue.

Every person and an officer director, employee or agent of a corporation charged with committing an offence under this By-law is a party to the offence who;

- a) actually commits it;
- b) does or omits to do anything for the purposes of aiding any person to commit it, or

- c) abets any person committing it. Where two or more persons form an intention in common to carry out an unlawful purpose, and to assist each other therein, each of those who knew or ought to have known that the commission of an offence under this By-law would be a probable consequence of carrying out the common purpose is a party to the offence.

ADDITIONAL REMEDY

Pursuant to the provisions of the Municipal Act, 2001, s. 446, as amended from time to time, the Township may cause any matter or thing be done upon the failure of the person being directed to do it, and the matter or thing shall be done at the person's expense.

For the purposes of the previous subsection, the Township may enter upon land at any reasonable time.

The Township may recover the costs of doing a matter or thing under this section from the person directed or 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.

I/We have read all of the above and undertake to comply with the provisions of the by-law

APPLICANT'S SIGNATURE:

A permit is granted in accordance with and subject to the above conditions:

ISSUED BY:

DATE:

PAYMENT RECEIVED:

THIS PERMIT EXPIRES ON DECEMBER 31st OF THE YEAR OF ISSUANCE AND COSTS \$10.00 PER YEAR.

BURNING BANS are published in the local newspapers. Before you burn please call the Township Office at (519) 925-5525, Monday to Friday between 8:30 a.m. and 4:30 p.m. except holidays to verify if there is a burning ban imposed by the Fire Chief.

Administrative Numbers:

Shelburne Fire Department: (519) 925-5111

Mulmur-Melancthon Fire Department; (519) 925-6481

Dundalk Fire Department: (519) 923-3113 then press 3