

STAFF REPORT:

REPORT TO: Council
MEETING DATE: November 14, 2011
REPORT NO.: FD.11.1
SUBJECT: Propane Storage and Handling Facilities - Fees for Review and/or Inspection
PREPARED BY: A. J. Lake, Deputy Fire Chief

A. Recommendations

THAT Council receive Staff Report FD.11.1, “Propane Storage and Handling Facilities – Fees for Review and/or Inspection”; and

THAT Council endorse the adoption of a by-law imposing fees for the review and/or inspection of propane storage and handling facilities; and

THAT Council authorize relief from the Provision of Notice and Manner of Giving Notice to the Public, Policy Ref. No. POL.COR.07.03, given the importance and time sensitivity of the matter.

B. Background

The Government of Ontario has amended Ontario Regulation 211/01 (Propane Storage and Handling). The amendments require facilities with fixed and portable propane storage of more than 5,000 US water gallons (“USWG”) to submit a Level 2 Risk and Safety Management Plan (“RSMP”).

Level 2 RSMP’s are prepared by a professional engineer and submitted to Fire Services for approval of the fire safety, fire protection and emergency preparedness components for the facility. It is recommended by the Ontario Fire Marshal’s Office that a 3rd party engineer review the submission to ensure the information is accurate and the facility is operating within the relevant guidelines and Standards.

The review and approval process of the Level 2 RSMP by the Fire Department will be time consuming. In addition to the costs associated with the 3rd party review, legal assistance will also be required for the clearance or conditional clearance letters prepared by the Chief Fire Official. These costs are expected to be approximately \$10,000.00. Because the Town currently does not have a by-law in place to recover these costs, Staff are recommending adoption of the attached by-law to impose fees for the review and/or inspection of propane storage and handling facilities on a cost-recovery basis.

The proposed by-law shall require the applicant to pay the fee identified in Schedule A which relates to the review process and issuance of clearance and/or conditional clearance letters. The proposed by-law also requires the applicant to be responsible for

all costs incurred by the municipality in obtaining a peer review of the RSMP by a qualified consulting engineer.

C. The Blue Mountains' Strategic Plan

Providing a strong, well managed municipal government.

D. Environmental Impacts

None

E. Financial Impact (financial consultation when advised)

Cost recovery through fees for services provided by the Fire Department Staff

Cost recovery for third part engineering review.

F. In Consultation With (list staff or parties contributing to report)

1. Fire Chief Ron Doherty
2. John Metras, Solicitor

G. Attached (Relevant documentation not personal information about an identifiable person)

1. Draft By-Law

Respectfully submitted,

Respectfully submitted,

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**THE CORPORATION OF THE
TOWN OF THE BLUE MOUNTAINS**

By-law Number 2011-

Being a by-law to Impose Fees for the Review and/or
Inspection of Propane Storage and Handling Facilities

Whereas Section 27.1 of Ontario Regulation 211/01, as amended, (the “Propane Storage and Handling Regulation”), requires propane storage and handling facilities to be licenced;

And Whereas, pursuant to section 13(3) of the Propane Storage and Handling Regulations no person shall commence operations of a new or modified propane storage and handling facility until such time as the Municipality’s Fire Department has been afforded the opportunity to view the as constructed facility;

And Whereas the licensing process established by the Propane Storage and Handling Regulation requires the “Applicant” for such license to obtain municipal approvals and/or clearance concerning the proposed operations and the required Risk and Safety Management Plans;

And Whereas the Municipality must rely upon outside consultants with particular expertise and qualification to complete portions of the review of the required Risk and Safety Management Plan;

And Whereas the Municipal Staff will also undertake portions of the review of the Risk and Safety Management Plan and must coordinate the review by its outside consultant;

And Whereas Municipal Staff will undertake a review and/or inspection of the subject propane storage and handling facility;

And Whereas the Municipality is authorized to impose and collect fees for services provided by the Municipality;

Now Therefore the Council of The Corporation of the Town of The Blue Mountains enacts as follows:

Application Fee

1. Upon submission of a request for an approval pursuant to section 27.1 of Ontario Regulation 211/01 as amended (the “**Propane Storage and Handling Regulation**”), which regulation is enacted pursuant to the Technical Standards and Safety Act, 2000, the Applicant shall pay the fee set out in Schedule “A”, which fee relates to the review process and issuance of clearance letter and/or conditional clearance letters provided for in sections 6 and 7 below; and commencement of operations.

Other Costs

2. In addition to the application fee referenced in section 1 above, the Applicant shall be responsible for all costs incurred by the Municipality in obtaining a peer review(s) of the Risk and Safety Management Plan or any modifications or amendments thereto by a qualified (consulting) engineer, together with, any and all legal fees and fees from other consultants for advice and assistance incurred by the Municipality for the review and approval process of the Risk and Safety Management Plan submission. Such costs shall include a 2.5% administration charge to compensate for staff time devoted to the conduct of the review by the aforementioned engineer. For clarity, the 2.5% administration charge shall be based on the amount set out in each account or invoice paid by the Municipality for the services required by the Municipality.

Payment of Costs: Suspension of Review

- 3.. The Applicant shall pay all invoices for the services referenced in Section 2, within 10 days of issuance of such invoice or request for payment by the Municipality. Failure to pay such invoices in full shall entitle the Municipality to suspend the consideration and review of the request until such time as the amounts, and any interest charges have been paid.

Deposit

4. As security to ensure payment of all invoices for the services referenced in Section 2 by the Applicant, the Applicant shall submit with its application a refundable deposit as set out in Schedule A to be used by the Municipality for the purpose of paying the invoices for the services referenced in Section 2 if the Applicant fails to do so in accordance with section 3. Upon the issuing of the licence or renewal thereof for the facility under the "Propane Storage and Handling Regulation" the Municipality will return the unused balance of this deposit to the Applicant.

Receipt of Application

5. The Municipality shall acknowledge, in writing, the date and time of the submission of the request, the application fee referenced in Section 1 and the payment of deposit referenced in Section 4.
6. The Municipality shall issue a response to the request identified in Section 1, within 30 days of the receipt of the peer review from the outside consultant referenced in Section 2. Based upon the results of the first review by the Municipality and its outside consultants, the Municipality may issue a full clearance as contemplated in Section 27.1(2) of the Propane Storage and Handling Regulations or it may issue a clearance that is subject to the satisfaction of conditions outlined therein (a "**conditional approval**").

Conditional Approvals

7. Whereas the Municipality has issued a "conditional approval" under Section 6, the applicant or its agents may supply updated information, provide responses, etc. ("**supplementary information**") to issues, requirements, concerns, etc., raised in the conditions, and the Municipality may subsequently refer such supplementary information to its staff and/or its outside consultant(s). The Municipality may, upon consideration of further comments, reports, etc., from staff and/or its outside consultant issue a full clearance letter.

No Further Application Fees

8. The Applicant shall not be required to submit the application fee set out in Section 1 in relation to supplementary information referenced in Section 7, but shall continue to be responsible for municipal costs related thereto in accordance with section 2.

Exception

9. Notwithstanding the provisions of section 8, whereupon an Applicant has not supplied supplementary information as set out or required under section 7 within 12 months of the date of the conditional approval, any further consideration of the request for approval shall be deemed to be a "**fresh**" request and the applicant shall be required to submit the application fee and deposit set out in Sections 1 and 4..

Delegation

10. The municipality may designate/identify specific staff persons to administer, enforce and exercise discretion under this by-law in accordance with section 23.1 of the Municipal Act, 2001 or any by-law passed thereunder.

Severability

11. All sections of this By-law shall be deemed to be separate and independent and the validity of any section or provision hereof shall not affect the remaining sections.

Force and Effect

12. This By-law shall come into force and effect upon the date of its enactment.

Enacted and Passed this 14th day of November, 2011

Ellen Anderson, Mayor

Corrina Giles, Town Clerk

**Schedule "A" to
By-law 2011-**

Fees

Risk & Safety Management Plan for Facility Over 5,000 USWG

1. **Application Fee** **\$1,000.00**

2. **Deposit** **\$10,000.00**