

**Town of O’Leary, PEI**  
**The Town of O’Leary Sewer Corporation Bylaw**  
**Bylaw # 2021 - 02**

**BE IT ENACTED** by the Council of the Town of O’Leary as follows:

**1. Title**

- 1.1. This bylaw shall be known and cited as the “Sewer Corporation Bylaw”.

**2. Authority**

- 2.1. Clause 180(b) of the *Municipal Government Act R.S.P.E.I. 1988, Cap. M-12.1.*, enables Council to establish a bylaw to provide municipal public utility services.
- 2.2. Pursuant to subsection 183(1) of the *Municipal Government Act*, this public utility will be established as a controlled corporation.

**3. Application**

- 3.1. This Bylaw applies to Council, all members of the Board of Directors of the Corporation, and customers of the public utility.

**4. Definitions**

- 4.1. “Act” means the *Municipal Government Act*.
- 4.2. “Chief Administrative Officer” or “CAO” means the administrative head of a municipality as appointed by Council under clause 86(2)(c) of the *Act*.
- 4.3. “Commission” means the *Island Regulatory and Appeals Commission* established under the *Island Regulatory and Appeals Commission Act R.S.P.E.I. 1988, Cap. I-11*.
- 4.4. “Controlled Corporation” means a controlled corporation as defined in the *Act*.
- 4.5. “Corporation” means the Town of O’Leary Municipal Sewage Collection and Treatment Corporation established herein.
- 4.6. “Council” means the mayor and other members of the Council of the municipality.
- 4.7. “Customer” means a property, person, firm or corporation who or which requests, or is supplied with, sewer service at a specific location or locations.
- 4.8. “Municipality” means the Town of O’Leary.
- 4.9. “Public Utility” means a public utility as defined in the *Water and Sewerage Act R.S.P.E.I. 1988, Cap. W-2*.
- 4.10. “Quorum” is a majority of the members of the Board of Directors and must include either the chair or vice-chair.

**5. Corporation Established**

- 5.1. Under the authority of subsection 183(1) and pursuant to clause 183(3)(a) of the *Act*, the Council of the Town of O'Leary establishes the Town of O'Leary Municipal Sewage Collection and Treatment Corporation.
- 5.2. Pursuant to clause 183(3)(a) of the **Act**, Council shall specify the composition and functions of the controlled corporation.

## **6. Corporation Administration**

- 6.1. Pursuant to subsection 2(1) of the *Water and Sewerage Act*, the Commission has and shall exercise general supervision and control over the Town of O'Leary Municipal Sewage Collection and Treatment Corporation.
- 6.2. The affairs of the Corporation shall be managed, in accordance with this bylaw and other applicable regulations, by the Board of Directors.
- 6.3. The Board of Directors shall be composed exclusively of sitting members of the Town of O'Leary municipal council with Mayor acting as Chair, and Deputy Mayor as Vice Chair
- 6.4. The Board of Directors shall be appointed in accordance with the municipality's Procedural Bylaw.
- 6.5. An employee of the corporation is considered a municipal employee.
- 6.6. Pursuant to subsection 86(1), clause 93(1)(d) and clause 93(1)(d1) of the *Act*, the Chief Administrative Officer is responsible for hiring, directing, managing and supervising the employees of a controlled corporation.

## **7. Meeting Procedures**

- 7.1. A quorum is required at all time for Board of Directors meetings.
- 7.2. The Chair, or in their absence the vice-chair, shall preside over meetings of the Board of Directors.
- 7.3. The CAO or designate must be attendance at all Board meetings to ensure minutes are recorded.
- 7.4. The Chair of the Board of Directors shall only vote in the event of a tie vote among other Board members
- 7.5. Decisions of the Board of Directors shall be determined by majority vote.
- 7.6. Meetings notice shall be as outlined in the municipality's Procedural Bylaw.
- 7.7. Business of the Board of Directors may be conducted during Town Council's regular and special meetings.

## **8. Functions of the Corporation**

- 8.1. Constructing, altering, extending, managing and controlling a system for providing the service of sewerage.

- 8.2. Acquiring, alienating, holding and disposing of real or personal property with Council approval.
- 8.3. Financing, with the approval of Council, any of its undertakings.
- 8.4. Collecting rates and charges for services provided to any customer.
- 8.5. Recommending rates to Council.
- 8.6. With the prior approval of Council provide for service outside the municipality boundaries provided the complete cost of providing this service is borne by the party or parties requiring this service.

## **9. Additional Responsibilities**

- 9.1. The Corporation shall conduct its affairs in accordance with generally accepted public utility practices.
- 9.2. The Corporation shall maintain safe and adequate service and facilities for services as changing conditions require.
- 9.3. The Board of Directors is responsible for providing the necessary strategic direction and the required oversight to fulfill the established functions of the Corporation.
- 9.4. For the efficient administration of municipal business, the Corporation and the Municipality shall cooperate in the provision of municipal services.

## **10. Rates, Charges and Interest**

- 10.1. The Corporation will recommend rates and/or frontage charges to Council to cover the costs of providing services.
- 10.2. Pursuant to subsection 184(1) of the *Act*, Council shall by bylaw levy rates and/or frontage charges in respect of real property for the services of the public utility that are sufficient to cover the costs of providing the services of the public utility following approval of the Commission in accordance with the *Water and Sewerage Act*.
- 10.3. All overdue and unpaid rates and frontage charges bear interest from the due date at the rate prescribed in the Commission's Regulations.

## **11. Liens**

- 11.1. Pursuant the Commission's regulations, rates or frontage charges that are overdue and unpaid, and any interest accrued, constitute a lien on the real property on which they are levied until payment in full is made.
- 11.2. Pursuant to the Commission's regulations, the lien referred to in 11.1 of this bylaw, has priority over every claim, privilege or encumbrance against the property of every person, except the Crown, and may be enforced on application to the Supreme Court for an order for the sale of the property.

## **12. Financial**

- 12.1. As per clause 183(3)(b) of the *Act*, the Corporation shall maintain its accounts separate from the accounts of the municipality.
- 12.2. Pursuant to clause 183(3)(b) of the *Act*, the Corporation shall prepare an annual financial statement to be submitted to Council.
- 12.3. In accordance with clause 183(3)(c) of the *Act*, the Corporation shall prepare annually a financial plan to be submitted to Council which contains at a minimum:
  - (a) an operating budget that includes estimates of revenues and expenditures,
  - (b) a capital budget; and
  - (c) a five-year capital expenditure program that includes an asset management program.
- 12.4. The fiscal year of the corporation shall be from 1 April to 31 March.
- 12.5. In accordance with section 12 of the *Water and Sewerage Act*, the public utility is required to keep and render its books, accounts, records and papers accurately and faithfully in the manner and form prescribed by the Commission and comply with all direction of the Commission relating to the books, accounts, papers and records.
- 12.6. If the Minister requires an inspection of the Corporation pursuant to subsection 216(1) of the *Act*, the Corporation shall produce all records of the Corporation for examination and inspection.

## **13. Complaints**

- 13.1. In accordance with subsection 184(4) of the *Act*, a complaint in respect of the terms and standards of service, rates, charges or schedules or any combination of them, of the public utility, is subject to appeal to the Commission under the *Water and Sewerage Act* in accordance with that Act.

## **14. Repeal of Existing Bylaw**

- 14.1. On adoption, this bylaw replaces Bylaw #5 and all amendments heretofore.

## **15. Effective Date**

- 15.1. This "Town of O'Leary Sewer Corporation Bylaw, Bylaw # 2021-02, shall be effective on the date of approval and adoption below.
- 15.2. First Reading:

This Sewer Corporation Bylaw, Bylaw# 2021-02, was read a first time at the Council meeting held on the 10th day of February, 2021.

This Town of O'Leary Sewer Corporation Bylaw, Bylaw# 2021-02, was approved by a majority of Council members present at the Council meeting held on the 10th day of February, 2021.

## **Second Reading:**

This Town of O'Leary Sewer Corporation Bylaw, Bylaw# 2021-02, was read a second time at the Council meeting held on the 10th day of March, 2021.

This Town of O'Leary Sewer Corporation Bylaw, Bylaw# 2021-02, was approved by a majority of Council members present at the Council meeting held on the 10th day of March, 2021.

**Approval and Adoption by Council:**

This Town of O'Leary Sewer Corporation Bylaw, Bylaw# 2021-02, was adopted by a majority of Council members present at the Council meeting held on the 10th day of March, 2021.

**Signatures**

\_\_\_\_ERIC GAVIN\_\_\_\_\_  
**Mayor** (signature sealed)

\_\_\_\_BEVERLEY SHAW\_\_\_\_\_  
**Chief Administrative Officer** (signature sealed)

This Town of O'Leary Sewer Corporation Bylaw adopted by the Council of the Town of O'Leary on March 10, 2021 is certified to be a true copy.

\_\_\_\_BEVERLEY SHAW\_\_\_\_\_  
**Chief Administrative Officer Signature**

\_\_\_\_MARCH 10, 2021\_\_\_\_\_  
**Date**