



Town of Kensington
A Bylaw to Establish a Water and Sewer Utility
Bylaw # 2021 – 01

A BYLAW OF THE TOWN OF KENSINGTON, IN THE PROVINCE OF PRINCE EDWARD ISLAND, TO ESTABLISH A WATER AND SEWER UTILITY AS A DEPARTMENT OF THE TOWN OF KENSINGTON.

WHEREAS Subsection 180(b) of the *Municipal Government Act R.S.P.E.I. 1988, Cap. M-12.1.*, provides that a Council may pass a bylaw and provide services for municipal utilities, public utilities, facilities, works and improvements on private and public land;

AND WHEREAS Subsection 183(1) of the *Municipal Government Act R.S.P.E.I. 1988, Cap. M-12.1.*, provides that where a Council provides a public utility pursuant to subsection 180(b), the Council shall establish its public utility as a department of the municipality or a controlled corporation and specify the functions of the public utility;

AND WHEREAS the Council for the Town of Kensington desires to operate the public utility as a department of the municipality, in accordance with all applicable legislation, regulations, directives and special contracts;

THEREFORE, the Council of the Town of Kensington, in the Province of Prince Edward Island, duly enacts this bylaw as follows:

BE IT ENACTED by the Council of the Town of Kensington as follows:

1. Title

1.1. This bylaw shall be known and cited as the “Kensington Water and Sewer Utility Bylaw.”

2. Authority

2.1. Section 180(b) of the *Municipal Government Act R.S.P.E.I. 1988, Cap. M-12.1* authorizes a Council to establish, by bylaw, a public utility for the purpose of delivering water and sewerage services.

2.2. Pursuant to subsection 183(1) of the *Act*, Kensington’s public utility for the purpose of delivering water and sewerage services, will be established as a department of the Municipality.

3. Application

- 3.1. This bylaw applies to all Councillors, employees and customers of the public utility.
- 3.2. Pursuant to Section 185 of the *Act*, a property shall only be charged for water and/or sewer services where a residence, building or other structure located on the property, is physically connected, by lateral lines, to a water or sewer main. Property owners shall only be charged for water and sewer services in which they are physically connected. Properties that are connected to a water or sewer main and service has been terminated through a curb stop valve, the customer shall only be charged the base and customer component of the applicable rate, as approved by the Commission.

4. Definitions

- 4.1. “Act” means the *Municipal Government Act*.
- 4.2. “Chief Administrative Officer” or “CAO” means the administrative head of the Town of Kensington as appointed by Council under section 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. “Council” means the Mayor and members of the Kensington Town Council.
- 4.5. “Customer” means a property, person, firm or corporation who requests, or is supplied with water and sewer service at a specific location or locations.
- 4.6. “Municipality” means the Town of Kensington.
- 4.7. “Public Utility” means a public utility as defined in the *Water and Sewerage Act R.S.P.E.I. 1988, Cap. W-2*.
- 4.8. “Utility” means the municipal utility department established herein.

5. Municipal Department Established

- 5.1. There is hereby established the Town of Kensington Water and Sewer Utility Department.
- 5.2. The Water and Sewer Utility Department shall conduct its affairs in accordance with generally accepted public utility practices and in any case, in accordance with directives, special contracts and regulations as approved by the Commission.

6. Water and Sewer Utility Administration

- 6.1. Pursuant to subsection 93(1)(d) of the Act, the CAO shall manage and supervise the employees that are responsible for the day-to-day operation of the public utility.

7. Functions of the Water and Sewer Utility Department

- 7.1. Pursuant to subsection 183(2) of the *Act*, and in accordance with the *Water and Sewerage Act* and its regulations, the water and sewer utility shall be responsible for constructing, altering, extending, managing and controlling a system for providing water and sewer utility services to the residents of the municipality.
- 7.2. Acquiring, alienating, holding and disposing of real or personal property with Council approval.
- 7.3. Financing, with the approval of Town Council, any of its undertakings.
- 7.4. Collecting rates and charges for services provided to any customer, as approved by Town Council.

8. Rates, Charges and Interests

- 8.1. Pursuant to subsection 184(1) of the *Act*, Council shall levy rates in respect of real property for the services of the water and sewer utility that are sufficient to cover the costs of providing the services of the water and sewer utility following approval of the Commission in accordance with the *Water and Sewerage Act*.
- 8.2. Pursuant to section 187 of the *Act*, all overdue and unpaid rates bear interest from the due date at the rate prescribed for real property tax pursuant to the Real Property Tax Act R.S.P.E.I. 1988, Cap.R-5.

9. Financial

- 9.1. Pursuant to subsection 183(4) of the *Act*, the Water and Sewer Utility Department shall maintain separate financial accounts for the public utility.

10. Liens

- 10.1. Pursuant to subsection 186(1) of the *Act*, rates that are overdue and unpaid, and any interest accrued, constitute a lien on the real property on which they are levied until payment is made in full.
- 10.2. Pursuant to subsection 186(2) of the *Act*, the lien referred to in section 10.1 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.

11. Complaints

- 11.1. 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*.

Town of Kensington Water and Sewer Utility Bylaw

12. Penalties

- 12.1. Fines and penalties, as considered necessary by Town Council can be established in accordance with subsection 162(1)(a)(ii) of the Act.
- 12.2. Any fines and/or penalties developed by Town Council shall be outlined in a Schedule 'A', as considered necessary by Town Council.

13. Repeal

- 13.1 All previous Bylaws of the Town of Kensington pertaining to the establishment of the Kensington Water and Pollution Control Corporation and/or the operation of a water and sewer utility are hereby repealed.

14. Effective Date

- 14.1 The Town of Kensington Water and Sewer Utility Bylaw, Bylaw #2021-01, is declared to be passed by Town Council on this, the 8th day of MARCH, 2021.

First Reading:

This Town of Kensington Water and Sewer Utility Bylaw, Bylaw# 2021-01, was read a first time at the Council meeting held on the 8th day of FEBRUARY, 2021.

This Town of Kensington Water and Sewer Utility Bylaw, Bylaw# 2021-01, was approved by a majority of Council members present at the Council meeting held on the 8th day of FEBRUARY, 2021.

Second Reading:

This Town of Kensington Water and Sewer Utility Bylaw, Bylaw# 2021-01, was read a second time at the Council meeting held on the 8th day of MARCH, 2021.

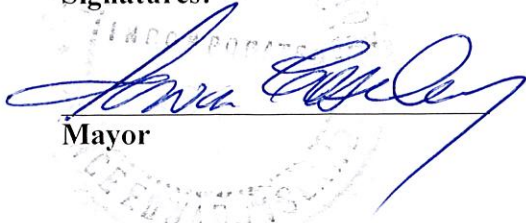
This Town of Kensington Water and Sewer Utility Bylaw, Bylaw# 2021-01, was approved by a majority of Council members present at the Council meeting held on the 8th day of MARCH, 2021.

Approval and Adoption by Council:

This Town of Kensington Water and Sewer Utility Bylaw, Bylaw# 2021-01, was adopted by a majority of Council members present at the Council meeting held on the 8th day of MARCH, 2021.

Town of Kensington Water and Sewer Utility Bylaw

Signatures:



A handwritten signature in blue ink, appearing to read "Anna C. ...", written over a horizontal line.

Mayor



A handwritten signature in blue ink, appearing to read "A.S.H.", written over a horizontal line.

Chief Administrative Officer

This Water and Sewer Utility Bylaw adopted by the Council of the Town of Kensington is certified to be a true copy.



A handwritten signature in blue ink, appearing to read "A.S.H.", written over a horizontal line.

Chief Administrative Officer

March 19 / 2021
Date