

HOUSE No. 4865

Substituted by the House, on motion of Mr. Speliotis of Danvers, for a bill with the same title (House, No. 3937). July 20, 2020

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act establishing the Littleton Common Smart Sewer District in the town of Littleton.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Notwithstanding any general or special law to the contrary, the town of
2 Littleton may lay out, construct, maintain and operate a system of common sewers and drains in
3 public or private ways for that part of its territory as it adjudges necessary for the public
4 convenience or public health with such connections and other works as may be required for a
5 system of sewerage and drainage, and sewage treatment and disposal. The resulting sewer
6 division shall be called the Littleton common smart sewer division. The division shall be under
7 the supervision and control of the board of water commissioners, who shall be the sewer
8 commissioners of the town of Littleton and shall henceforth be titled the “board of
9 commissioners.” The sewer system shall initially be laid out as depicted in the plan of the
10 Littleton common smart sewer division, which is on file with the clerk of the town of Littleton,
11 and the properties that may be initially included within the division are described in section 9 by
12 assessor’s map and lot number. The sewer system and division may be expanded in the future by
13 a vote of the board of commissioners; provided, that the process for including or excluding
14 properties in the division shall conform to sections 3 and 4. The division shall be organized,

15 governed and modified as set forth in this act. All land and buildings on the properties included
16 in the division shall be served by the town's smart sewer system, as well as all sewer pipelines,
17 pump stations and treatment and disposal facilities included in the Littleton common smart sewer
18 project. The treatment and disposal facilities and associated infrastructure may be located either
19 inside or outside of the division. Project phasing may limit the timing of sewer service to a
20 subset of the properties included in the division, to be determined by the town of Littleton based,
21 in part, on the relative need for sewer service and elective residential and tax-exempt property
22 owner decisions to opt in or out of the division.

23 SECTION 2. The board of commissioners of the town of Littleton, in their capacity as
24 sewer commissioners, shall have all the powers and perform the duties of sewer commissioners
25 in chapter 83 of the General Laws, subject to the modifications stated herein. The board of
26 commissioners shall have the authority to adopt rules and regulations for access to and use of the
27 wastewater system, as well as for the establishment of sewer betterment assessments, sewer
28 connection fees, user fees and other charges which shall be paid by every person who may in the
29 future be served by, or connects to the sewer system, as appropriate. Said fees shall be
30 reasonably related to the capital and operational costs of the sewer system. Supervision of the
31 operation of the Littleton common smart sewer division shall be the responsibility of the general
32 manager of the Littleton water department.

33 SECTION 3. Properties that are abutting a private or public way in which a common
34 sewer will be laid may have the opportunity to connect to the sewer system and become part of
35 the Littleton common smart sewer division, as determined by the board of commissioners in
36 accordance with section 5. All commercial and industrial properties that are given access to the
37 sewer system shall be required to connect and become part of the division. Single and 2-family

38 residential properties and properties owned by a tax-exempt organization that are given access to
39 the sewer system shall have the opportunity to permanently opt out of connecting to, or making
40 use of, the sewer system. If a property owner opts out of the Littleton common smart sewer
41 division, that property shall not be permitted to rejoin the division in the future without approval
42 of the board of commissioners and town meeting. Sufficient time shall be allowed for the owners
43 of improved eligible properties to determine whether to opt out of the connection to, or use of,
44 the Littleton common smart sewer division. The town of Littleton shall develop, adopt and
45 enforce policies and procedures to provide the option to opt out of the Littleton common smart
46 sewer division. Such policies and procedures shall include, at a minimum, the following
47 requirements that shall be met before a property can opt out of the Littleton common smart sewer
48 division:

49 (1) The property owner shall demonstrate that the subject property is eligible to opt-out
50 for 1 of the following reasons:

51 (a) the property has a functioning onsite wastewater treatment and disposal system in
52 acceptable condition that is operating in compliance with the state environmental code,
53 promulgated by the commissioner of the department of environmental protection pursuant to
54 section 13 of chapter 21A of the General Laws, evidenced in the manner required by said code;
55 provided however, that lot line setback requirements for septic tank or leaching systems shall not
56 disqualify a property;

57 (b) the property has a functioning onsite wastewater treatment and disposal system as
58 evidenced by: (i) documentation that demonstrates that the existing on-site wastewater treatment
59 and disposal system or repair of same was installed after December 31, 2017; and (ii) that the

60 existing onsite wastewater treatment and disposal system is operating and in acceptable
61 condition; or

62 (c) the property is devoid of structures, has no on-site wastewater treatment and disposal
63 system and is prevented from future development through a legally enforceable recorded
64 restriction on any such future development in perpetuity or has been previously deemed
65 unbuildable by the building inspector of the town of Littleton, with or without access or
66 connection to the sewer system, as demonstrated by documentation establishing these facts.

67 (2) A property owner's decision to opt-out shall be in writing and shall acknowledge that
68 the property owner understands that by opting out of the Littleton common smart sewer division,
69 the property shall not ever connect to, or make use of, the sewer system, except by permission of
70 the board of commissioners and town meeting.

71 SECTION 4. Notwithstanding sections 14 and 15 of chapter 83 of the General Laws to
72 the contrary, the board of commissioners of the town of Littleton may establish policies and
73 procedures relative to assessment of sewer betterments to all properties that are located within
74 the Littleton common smart sewer division.

75 SECTION 5. The board of commissioners of the town of Littleton shall have the sole
76 discretion to determine which property owners shall be added to the Littleton common smart
77 sewer division. The board of commissioners shall have the sole discretion to determine the
78 amount of wastewater treatment system capacity allocated to each user of the system.
79 Applications for connection shall be reviewed by a representative of the board of health, a
80 representative of the planning board and the general manager of the Littleton water department,
81 or their designees, who shall present a recommendation to the board of commissioners regarding

82 the application. In making the recommendation, the representatives and director, or designees,
83 shall consider the overall existing use of the property as represented in the application, and, but
84 for a change in use of the property, the economic benefit afforded by approval of the application,
85 the amount of available wastewater treatment capacity and such other factors as the
86 representatives and director, or designees, shall deem appropriate, or as may be directed by the
87 board of commissioners.

88 SECTION 6. Prior to or upon the start of construction of the sewer system, properties that
89 have been given access to the sewer system and have not opted out of the Littleton common
90 smart sewer division pursuant to section 3, shall be required by the board of commissioners of
91 the town of Littleton, or other duly authorized officer having charge of the maintenance and
92 repair of the sewer system, to connect such land to the sewer system within 2 years of the date
93 that the sewer is approved for use and a notice of sewer availability has been issued by the board
94 of commissioners or other duly authorized officer and received by the property owner. No
95 property owner may postpone their connection to the sewer system later than this date unless an
96 application to postpone such a connection has been approved by the board of commissioners in
97 accordance with section 7.

98 The approved postponement shall delay connection to the public sewer but shall not
99 entitle the property owner to defer any sewer betterment payment approved by the town of
100 Littleton.

101 SECTION 7. Postponements for connection to the sewer system may be allowed in
102 limited circumstances where all of the following conditions have been satisfied: (1) the property
103 is part of the Littleton common smart sewer division; (2) the property owner has submitted to the

104 board of commissioners of the town of Littleton a signed and notarized application for a sewer
105 connection postponement citing 1 or more of the following reasons: (a) the property owner has
106 an existing on-site sewage treatment and disposal system operating and in acceptable condition,
107 as demonstrated in a report issued within the previous 60 days, evidencing compliance with the
108 state environmental code, promulgated by the commissioner of the department of environmental
109 protection pursuant to section 13 of chapter 21A of the General Laws, which shall be submitted
110 with the application for sewer connection postponement; or (b) the property has an existing on-
111 site sewage treatment and disposal system that was installed after December 31, 2017 in
112 compliance with all state environmental code requirements and required no variances, except for
113 septic tanks or leaching facilities lot line setback requirements, as demonstrated by
114 documentation from the board of health of the town of Littleton or the Nashoba associated board
115 of health, that demonstrates that the date of installation and certification of the system or system
116 repair meets the requirements, and states further that the system meets all such requirements. The
117 board of commissioners shall develop policies and procedures within 180 days of the effective
118 date of this act, including procedures to apply for an application for sewer connection
119 postponement and all additional requirements to permit such applications.

120 SECTION 8. The board of commissioners may enter into a payment deferral and
121 recovery agreement on behalf of the town of Littleton with the owner of a property that meets the
122 qualifications in this section and has been assessed a sewer betterment. To qualify for the
123 deferral and recovery agreement, the property shall have an existing onsite sewage treatment
124 system that is fully compliant with state regulations and meets the requirements established for
125 deferrals set forth in section 3 relative to the onsite sewage treatment system.

126 The deferral and recovery agreement shall: (1) provide the deferral period, which shall
127 not exceed 10 years; (2) provide that the agreement shall terminate and the assessment shall be
128 due before the agreed term if: (a) title to the property is conveyed; (b) the septic system is
129 determined to be a failed system by the board of health of the town of Littleton; or (c) the
130 property is connected to the sewer system; (3) provide that the property owner shall pay interest
131 annually upon the assessment from the time said assessment was made; and (4) include the
132 written approval of any joint owner or mortgagee on the property.

133 The deferral and recovery agreement shall be recorded in the registry of deeds and shall
134 constitute a lien upon the property.

135 SECTION 9. The following parcels, as shown on the town of Littleton's assessor's map,
136 may be initially included within the division: U10 30 0; U10 28 0; U10 27 0; U10 26 0; U10 2 0;
137 U10 25 0; U10 3 0; U10 24 0; U10 4 0; U10 23 0; U10 5 0; U10 22 0; U10 21 0; U10 6 0; U10
138 20 0; U10 7 0; U10 19 0; U10 8 0; U10 18 0; U10 9 0; U10 17 0; U10 10 0; U10 16 0; U10 11 0;
139 U10 15 0; U10 12 0; U10 29 0; U43 2 0; R15 21 0; R18 14 7; R18 14 11; U10 14 0; U10 13 0;
140 U10 45 0; U07 2 1; U07 2 9; U07 2 8; U07 2 7; U07 2 2; U07 2 3; U07 2 4; U07 2 5; U20 9 0;
141 U10 71 0; U10 35 0; U10 70 0; U10 69 0; U10 36 0; U10 68 0; U10 37 0; U10 67 0; U10 66 0;
142 U10 38 0; U10 65 0; U10 39 0; U10 64 0; U10 63 0; U10 40 0; U10 62 0; U10 41 0; U10 42 0;
143 U10 61 0; U10 43 0; U10 44 0; U10 50 0; U09 29 2; U09 29 0; U06 4 3; U06 4 1; U06 4 2; U11
144 4 3; U06 1 0; U07 28 0; U07 29 0; U07 30 0; U07 27 0; U07 26 0; U07 25 0; U07 32 0; U07 33
145 0; U07 34 0; U07 35 0; U07 24 0; U07 23 0; U07 36 0; U07 37 0; U07 38 0; U07 22 0; U07 39
146 0; U07 40 0; U07 41 0; U07 11 0; U07 12 0; U07 13 1; U09 28 0; R18 4 0; R18 5 0; R18 6 0;
147 R18 8 0; R18 8 1; R18 12 1; R18 12 2; R18 12 3; R18 12 4; R18 14 4; R18 14 3; R18 14 5; R18
148 14 10; R18 14 9; R18 14 6; R18 14 0; R18 14 2; U11 4 4; U09 10 10; U09 10 11; U09 19 0; U09

149 17 0; U09 15 0; U09 16 0; U09 18 0; U09 10 0; U09 10 3; U09 10 2; U09 10 6; U09 10 4; U09
150 10 8; U09 10 5; U10 109 A; U10 74 A; U10 109 0; U10 75 0; U10 108 0; U10 76 0; U10 107 0;
151 U10 77 0; U10 106 0; U10 78 0; U10 79 0; U10 89 0; U10 80 0; U10 88 0; U10 81 0; U10 87 0;
152 U10 82 0; U10 86 0; U10 85 0; U07 2 19; U08 18 0; U08 17 A; U07 2 A; U07 3 0; U07 4 0; U07
153 6 0; U07 7 0; U08 7 0; U08 6 0; U08 5 0; U10 72 0; U10 73 0; U10 74 0; U10 110 0; U10 111 0;
154 U10 112 0; U09 27 0; U09 26 0; U09 25 0; U09 24 0; U09 23 0; U09 22 0; U09 21 0; U09 20 0;
155 U09 5 0; U10 112 1; U10 113 0; U10 115 0; U10 116 0; U18 15 0; U10 114 0; U18 100 0; U18
156 13 0; U18 101 0; U18 12 0; U18 102 0; U18 11 0; U18 103 0; U18 10 0; U18 9 0; U18 104 0;
157 U18 105 0; U18 8 0; U18 106 0; U18 107 0; U18 108 1; U18 109 0; U19 38 1; U19 38 0; U19 37
158 0; U42 5 0; U07 8 1; U10 60 0; U10 59 0; U10 84 0; U07 10 1; U07 9 06 ; U07 10 0; U43 1 0;
159 U07 1 1; U07 1 2; U07 1 3; U07 1 4; U07 1 5; U07 14 0; U07 15 0; U07 16 0; U07 17 0; U07 18
160 0; U07 19 1; U07 19 2; U07 20 0; U07 43 0; U07 44 0; U07 45 0; U07 46 0; U07 19 3; U07 19
161 4; U07 47 0; U20 1 0; U19 21 0; R18 2 0; R18 2 A; R17 1 0; R18 3 1; R18 3 2; R18 3 3; R18 3
162 4; R18 3 5; R18 3 6; R18 3 7; R18 3 8; R18 3 9; R18 3 10; R18 3 11; R18 3 12; R18 3 13; R18 3
163 14; R18 3 15; R18 3 16; R18 3 17; R18 3 18; R18 3 19; R18 2 1; U09 4 0; U09 3 B; U09 3 1;
164 U09 3 0; U09 3 2; U09 3 A; U18 14 0; U18 1 0; U18 2 0; U18 3 0; U09 2 0; U18 4 0; U09 1 0;
165 U18 5 0; U18 6 0; U10 31 0; U10 32 0; U10 34 0; U07 5 1; U07 6 1; U07 6 2; U07 5 0; U09 7 0;
166 U09 8 0; U09 9 0; U09 4 2; U09 29 1; U09 13 0; U09 11 0; and U09 12 0.

167 SECTION 10. Every decision by the board of commissioners of the town of Littleton, or
168 duly authorized officer having charge of the sewer system, permitting or denying a connection to
169 the sewer system, shall be made in writing. Any person aggrieved by such a decision may
170 appeal said decision within 30 days of issuance pursuant to section 14 of chapter 30A of the
171 General Laws.

172 SECTION 11. The board of commissioners may: (1) take by eminent domain pursuant to
173 chapter 79 or chapter 80A of the General Laws, or acquire by lease, purchase or otherwise, any
174 lands, sewer rights, and public or private rights of way or easements, located within or outside of
175 the division and necessary for accomplishing any purpose described in this act; (2) construct
176 such main drains and sewers under or over any bridge, railroad, railway, boulevard or other
177 public or private way, or within the location of any railroad; (3) enter upon and dig up any
178 private land, public or private way or railroad location for the purpose of laying such drains and
179 sewers and of maintaining and repairing the same; and (4) do any other thing proper or necessary
180 for the purposes of this act; provided however, that the board of commissioners shall not enter
181 upon or construct any drain or sewer within the location of any railroad corporation except at
182 such time and in such manner as they may agree upon with such corporation, or, in the case of
183 failure to agree, as may be approved by the department of public utilities, and that the manner in
184 which all things done upon any way shall be subject to the applicable bylaws and regulations of
185 the town of Littleton. The board of commissioners or its employees or agents acting on behalf of
186 the town of Littleton may enter upon any land for the purpose of making surveys, test wells or
187 test pits and borings and may take or otherwise acquire the right to occupy temporarily any lands
188 necessary for the construction of any work or for any other purpose authorized by this act,
189 provided notice is given and property is restored.

190 SECTION 12. All land taken or acquired under this act shall be managed, improved and
191 controlled by the board of commissioners of the town of Littleton in a manner as they shall
192 consider as in the best interest of the town in the operation of the sewer system.

193 SECTION 13. The town of Littleton shall be deemed to have accepted 13B of chapter 80
194 and sections 16A to 16E, inclusive, and section 16G of chapter 83 of the General Laws.

195 Applications for abatements in accordance with said section 16E of said chapter 83 shall be
196 made to the board of commissioners within 30 days after the date of the demand.

197 SECTION 14. In carrying out this act, the town of Littleton shall not discriminate against
198 any person on the grounds of race, color, marital status, physical disability, age, sex, sexual
199 orientation, religion, ancestry or nation origin in any manner prohibited by the laws of the United
200 States, the commonwealth or the town of Littleton.

201 SECTION 15. Insofar as the provisions of this act are inconsistent with any general or
202 special law, administrative order, regulation or any by-law, rule, regulation or code of the town,
203 except rules and regulations or orders of the board of health or by-laws of the town which require
204 homes or facilities to be connected to the Littleton common smart sewer division sewer system
205 involuntarily, this act shall control.

206 SECTION 16. This act shall take effect upon its passage.