

HOUSE No. 5161

Text of a further amendment offered by Mr. Speliotis of Danvers to the amendment recommended by His Excellency the Governor to the engrossed Bill establishing the Littleton Common Smart Sewer District in the town of Littleton (see House Bill No. 4865). November 30, 2020.

The Commonwealth of Massachusetts

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

By striking out all after the enacting clause and inserting in place thereof the following:—

1 “SECTION 1. Notwithstanding any general or special law to the contrary, but subject to
2 sections 26 to 53, inclusive, of chapter 21 of the General Laws and section 40 of chapter 131 of
3 the General Laws, the town of Littleton may lay out, construct, maintain and operate a system of
4 common sewers and drains in public or private ways for that part of its territory as it deems
5 necessary for the public convenience or public health with such connections and other works as
6 may be required for a system of sewerage and drainage and sewage treatment and disposal. The
7 resulting sewer system shall be known as the Littleton common smart sewer division. The
8 division shall be under the supervision and control of the board of water commissioners, who
9 shall be the sewer commissioners of the town of Littleton. The sewer system shall initially be
10 laid out as depicted in the plan entitled, “Littleton Common Smart Service Area” dated April
11 2019, which is on file with the town clerk and the properties that may be initially included within
12 the division are described in section 9 by assessor’s map and lot number. The sewer system and
13 division may be expanded by a vote of the board of water commissioners; provided, however,
14 that the process for including or excluding properties in the division shall conform to sections 3

15 and 4. The division shall be organized, governed and modified as set forth in this act. All land
16 and buildings on the properties included in the division shall be served by the town of Littleton's
17 smart sewer system, as well as all sewer pipelines, pump stations and treatment and disposal
18 facilities included in the Littleton common smart sewer project. The treatment and disposal
19 facilities and associated infrastructure may be located either inside or outside of the division.
20 Project phasing may limit the timing of sewer service to a subset of the properties included in the
21 division, to be determined by the town of Littleton based, in part, on the relative need for sewer
22 service and decisions by residential and tax-exempt property owners to opt in or out of the
23 division.

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

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

the sewer system shall be required to connect and become part of the division. Single and 2-family residential properties and properties owned by a tax-exempt organization that are given access to the sewer system shall have the opportunity to permanently opt out of connecting to or making use of the sewer system. If a property owner opts out of the Littleton common smart sewer division, that property shall not be permitted to rejoin the division without approval of the board of water commissioners and town meeting. Sufficient time shall be allowed for the owners of improved eligible properties to determine whether to opt out of the connection to or use of the Littleton common smart sewer division. The town of Littleton shall develop, adopt and enforce policies and procedures to provide the option to opt out of the Littleton common smart sewer division. Such policies and procedures shall include, but not be limited to, the following requirements that shall be met before a property can opt out of the Littleton common smart sewer division:

(i) the property owner shall demonstrate that the subject property is eligible to opt out because the property:

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

(B) has a functioning on-site wastewater treatment and disposal system as evidenced by:
(1) documentation that demonstrates that the existing on-site wastewater treatment and disposal

59 system or repair of the same was installed after December 31, 2017; and (2) that the existing on-
60 site wastewater treatment and disposal system is operating and in acceptable condition; or

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

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

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

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

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

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

96 The approved postponement shall delay connection to the public sewer but shall not
97 entitle the property owner to defer any payment for a sewer betterment assessment approved by
98 the town of Littleton.

99 SECTION 7. Postponements for connection to the sewer system may be allowed if: (i)
100 the property is part of the Littleton common smart sewer division; and (ii) the property owner has
101 submitted to the board of water commissioners a signed and notarized application for a sewer
102 connection postponement citing 1 or more of the following reasons: (A) the property owner has

an existing on-site sewage treatment and disposal system operating and in acceptable condition, as demonstrated in a report issued within the previous 60 days, evidencing compliance with the state environmental code, promulgated by the commissioner of environmental protection pursuant to section 13 of chapter 21A of the General Laws, which shall be submitted with the application for sewer connection postponement; or (B) the property has an existing on-site sewage treatment and disposal system that was installed after December 31, 2017 in compliance with all state environmental code requirements and required no variances, except for septic tanks or leaching facilities lot line setback requirements, as demonstrated by documentation from the board of health of the town of Littleton or the Nashoba associated boards of health that demonstrates that the date of installation and certification of the system or system repair meets such requirements and states further that the system meets all such requirements. The board of water commissioners shall develop policies and procedures within 180 days of the effective date of this act, including procedures to apply for sewer connection postponement and all additional requirements to permit such applications.

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

The deferral and recovery agreement shall: (i) provide the deferral term, which shall not exceed 10 years; (ii) provide that the agreement shall terminate and the assessment shall be due before the agreed term if: (A) title to the property is conveyed; (B) the septic system is

determined to be a failed system by the board of health of the town of Littleton; or (C) the property is connected to the sewer system; (iii) provide that the property owner shall pay interest annually upon the assessment from the time said assessment was made; and (iv) include the written approval of any joint owner or mortgagee on the property.

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

SECTION 9. The following parcels, as shown in the plan identified in section 1 and described below by map and lot number on the town of Littleton's assessor's map, may be initially included within the division: U10 30 0; U10 28 0; U10 27 0; U10 26 0; U10 2 0; 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 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; 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; 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; 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; 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; 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 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 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 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; 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 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 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 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; U10 77 0;

149 U10 106 0; U10 78 0; U10 79 0; U10 89 0; U10 80 0; U10 88 0; U10 81 0; U10 87 0; U10 82 0;
150 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 6 0; U07
151 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; U10 112
152 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; U09 5 0;
153 U10 112 1; U10 113 0; U10 115 0; U10 116 0; U18 15 0; U10 114 0; U18 100 0; U18 13 0; U18
154 101 0; U18 12 0; U18 102 0; U18 11 0; U18 103 0; U18 10 0; U18 9 0; U18 104 0; U18 105 0;
155 U18 8 0; U18 106 0; U18 107 0; U18 108 1; U18 109 0; U19 38 1; U19 38 0; U19 37 0; U42 5 0;
156 U07 8 1; U10 60 0; U10 59 0; U10 84 0; U07 10 1; U07 9 06 ; U07 10 0; U43 1 0; U07 1 1; U07
157 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 0; U07 19 1;
158 U07 19 2; U07 20 0; U07 43 0; U07 44 0; U07 45 0; U07 46 0; U07 19 3; U07 19 4; U07 47 0;
159 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 4; R18 3 5;
160 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 14; R18 3
161 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; U09 3 0; U09
162 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; U18 5 0; U18 6
163 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; U09 8 0; U09 9
164 0; U09 4 2; U09 29 1; U09 13 0; U09 11 0; and U09 12 0.

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

169 SECTION 11. The board of water commissioners may: (i) take by eminent domain
170 pursuant to chapter 79 or chapter 80A of the General Laws or acquire by lease, purchase or
171 otherwise, any lands, sewer rights and public or private rights of way or easements located

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

188 SECTION 12. All land taken or acquired under this act shall be managed, improved and
189 controlled by the board of water commissioners in a manner the board considers to be in the best
190 interest of the town of Littleton in the operation of the sewer system.

191 SECTION 13. The town of Littleton shall be deemed to have accepted section 13B of
192 chapter 80 of the General Laws and sections 16A to 16E, inclusive, and section 16G of chapter
193 83 of the General Laws. Applications for abatements in accordance with said section 16E of said

194 chapter 83 shall be made to the board of water commissioners within 30 days after the date of the
195 demand.

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

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

205 SECTION 16. This act shall take effect upon its passage.”; and

206 By striking out the title and inserting in place thereof the following title: “An Act
207 establishing the Littleton Common Smart Sewer Division in the town of Littleton.”