

## AN ACT ESTABLISHING THE LITTLETON COMMON SMART SEWER DISTRICT IN THE TOWN OF LITTLETON

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Littleton is hereby authorized to lay out, construct, maintain and operate a system or systems of common sewers and drains in public or private ways for that part of its territory as it adjudges necessary for the public convenience or the public health with such connections and other works as may be required for a system or systems of sewerage and drainage, and sewage treatment and disposal. The resulting sewer district shall be called the Littleton common smart sewer district. The district shall be under the supervision and control of the board of water commissioners, who shall act as sewer commissioners of the town of Littleton and shall henceforth be titled the “board of commissioners”. The sewer system shall initially be laid out as depicted in the attached plan of the Littleton common smart sewer district and the properties that may be initially included within the district are described in the attached list which includes the assessor’s map and lot number, street address, owner of record as of February 28, 2019 and approximate acreage of same. The sewer system and district may be expanded in the future by a vote of the board of commissioners; provided, however, that the process for including or excluding properties in the district shall conform to Sections 3 and 4, below. The district shall be organized, governed, and modified as set forth in this Act. All land and buildings on the properties included in the district shall be served by the town’s Smart Sewer System, as well as all sewer pipelines, pump stations and treatment and disposal facilities included in the Littleton common smart sewer project. The treatment and disposal facilities and associated infrastructure may be located either inside or outside of the district. Project phasing will limit the timing of sewer service to a subset of the properties included in the district, to be determined by the town of Littleton based, in part, on the relative need for sewer service and elective residential and tax-exempt property owner decisions to opt in or out of the district.

SECTION 2. The board of commissioners, in their capacity as sewer commissioners, shall have all the powers and perform the duties of sewer commissioners as set forth in chapter 83 of the general laws, subject to the modifications stated herein. The board of commissioners shall have the authority to adopt rules and regulations for access to and use of the wastewater system, as well as for the establishment of sewer betterment assessments, sewer connection fees, and user fees and other charges which shall be paid by every person who may in the future be served by, or connects to the sewer system, as appropriate. Said fees shall be reasonably related to the capital and operational costs of the sewer system. Supervision of the operation of the Littleton common smart sewer district shall be the responsibility of the General Manager of the Littleton Water Department.

SECTION 3. Properties that are abutting a private or public way in which a common sewer will be laid may have the opportunity to connect to the sewer system and become part of the Littleton common smart sewer district, as determined by the board of commissioners in accordance with Section 5, below. All commercial and industrial properties that are given access to the sewer system shall be required to connect and

become part of the district. Single and two-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. However, if a property owner opts out of the Littleton common smart sewer district, that property shall not be permitted to rejoin the district in the future without approval of the board of commissioners and town meeting. Sufficient time will 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 district. 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 district. Such policies and procedures shall include, at a minimum, the following requirements that must be met before a property can opt out of the Littleton common smart sewer district:

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

(a) The property has a functioning onsite wastewater treatment and disposal system as evidenced by a Title 5 Inspection Report that demonstrates (i) that the existing onsite wastewater treatment and disposal system is fully compliant with current Title 5 (310 CMR 15.00) requirements except for lot line setback requirements for septic tank and/or leaching systems; and (ii) that the existing onsite wastewater treatment and disposal system is operating and in acceptable condition; or

(b) The property has a functioning onsite wastewater treatment and disposal system as evidenced by (i) documentation that demonstrates that the existing on-site wastewater treatment and disposal system or repair of same was installed after December 31, 2017 and (ii) that the existing onsite wastewater treatment and disposal system is operating and in acceptable condition; or

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

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

SECTION 4. Notwithstanding the provision of sections 1, 14, 15 of chapter 83 of the general laws to the contrary, the board of commissioners may establish policies and procedures addressing the assessment of sewer betterments to all properties that are located within the Littleton common smart sewer district.

SECTION 5. The board of commissioners shall have the sole discretion to determine which property owners shall be added to the Littleton common smart sewer district. The board of commissioners shall also have the sole discretion to determine the amount of wastewater treatment system capacity allocated to each user of the system.

Applications for connection shall be reviewed by a representative of the board of health, a representative of the planning board, and the General Manager of the Littleton Water Department, or their designees, who shall present a recommendation to the board of commissioners regarding said application. In making said recommendation, the representatives and director, or designees, shall consider the overall existing use of the property as represented in the application, and, but for a change in use of the property, the economic benefit afforded by approval of the application, the amount of available wastewater treatment capacity, and such other factors as the representatives and director, or designees, shall deem appropriate, or as may be directed by the board of commissioners.

SECTION 6. Prior to or upon the start of construction of the sewer system, properties that have been given access to the sewer system and have not officially opted out of the Littleton common smart sewer district, shall be required by the board of commissioners, or other duly authorized officer having charge of the maintenance and repair of the sewer system, to connect such land to the sewer system within two years of the date that the sewer is "approved for use" and a "notice of sewer availability" has been issued by the board of commissioners or other duly authorized officer and received by the property owner. No property owner may postpone their connection to the sewer system later than this date unless an application to postpone such a connection has been approved by the board of commissioners in accordance with section 7, below.

Such approved postponements shall delay connection to the public sewer but shall not entitle the property owner to defer any sewer betterment payment that is approved by the Town.

SECTION 7. Postponements for connection to the sewer system may be allowed in limited circumstances where all of the following have been satisfied: (a) the property is part of the Littleton common smart sewer district; (b) the property owner has submitted to the board of commissioners a signed and notarized application for a sewer connection postponement citing one or more of the following reasons: (i) the property owner has an existing on-site sewage treatment and disposal system operating and in acceptable condition, as demonstrated in a recent (within the previous 60 days) Title 5 Inspection Report, which shall be submitted with the application for sewer connection postponement; or (ii) the property has an existing on-site sewage treatment and disposal system that was installed after December 31, 2017 in compliance with all Title 5 requirements and required no variances, except for septic tanks and/or leaching facilities Lot line setback requirements, as demonstrated by documentation from the Littleton board of health or the Nashoba Associated Board of Health, that demonstrates that the date of installation and certification of the system or system repair meets the requirements set forth above, and states further that the system meets all such requirements. The board of commissioners shall develop policies and procedures within

180 days of approval of this Act, including procedures to apply for an application for sewer connection postponement and all additional requirements to permit such applications.

SECTION 8. The board of 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 described herein and has been assessed a sewer betterment. In order to qualify for the deferral and recovery agreement, the property shall have an existing onsite sewage treatment system that is fully compliant with state regulations and meets the requirements established for deferrals enumerated in Section 3 of this petition related to the onsite sewage treatment system.

The deferral and recovery agreement shall:

- (1) provide the deferral period, which shall last no longer than ten years;
- (2) provide that the agreement shall terminate and the assessment shall be due before the agreed term if title to the property is conveyed, the Title 5 system is determined by the Littleton board of health to be a failed system, or the property is connected to the sewer system;
- (3) provide that the property owner shall pay interest annually upon the assessment from the time it was made; and
- (4) 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. Every decision by the board of commissioners, or duly authorized officer having charge of the sewer system, permitting or denying a connection to the sewer system, shall be made in writing. Any person aggrieved by such a decision may appeal said decision within 30 days of issuance pursuant to the provisions of Section 14 of chapter 30A of the General Laws.

SECTION 10. The board of commissioners may take by eminent domain pursuant to chapter 79 or chapter 80A of the general laws, or acquire by lease, purchase or otherwise, any lands, sewer rights, and public or private rights of way or easements, located within or outside of the district and necessary for accomplishing any purpose mentioned in this Act, and may construct such main drains and sewers under or over any bridge, railroad, railway, boulevard or other public or private way, or within the location of any railroad, and may enter upon and dig up any private land, public or private way, or railroad location for the purpose of laying such drains and sewers and of maintaining and repairing the same, and may do any other thing proper or necessary for the purposes of this Act; provided however, that they shall not enter upon or construct any drain or sewer within the location of any railroad corporation except at such time

and in such manner as they may agree upon with such corporation, or, in the case of failure to agree, as may be approved by the department of public utilities, and that the manner in which all things done upon any way shall be subject to the applicable bylaws and regulations of the town of Littleton. Further, the board of commissioners or its employees or agents acting on behalf of the town of Littleton may enter upon any land for the purpose of making surveys, test wells or test pits and borings and may take or otherwise acquire the right to occupy temporarily any lands necessary for the construction of any work or for any other purpose authorized by this Act, *provided notice is given and property is restored.*

SECTION 11. All land taken or acquired under this act shall be managed, improved and controlled by the board of commissioners in a manner as they shall consider as in the best interest of Town in the operation of the sewer system.

SECTION 12. The board of commissioners shall have the benefit, without further acceptance by Littleton town meeting, of the provisions of section 13B of chapter 80 of the general laws and sections 16A to 16E, inclusive, and section 16G of chapter 83 of the general laws. Applications for abatements in accordance with said section 16E of chapter 83 shall be made to the board of commissioners within 30 days after the date of the demand.

SECTION 13. In carrying out the provisions of this Act, the town of Littleton shall not discriminate against any person on the grounds of race, color, marital status, physical disability, age, sex, sexual orientation, religion, ancestry or nation origin in any manner prohibited by the laws of the United States, the commonwealth or the town of Littleton.

SECTION 14. Insofar as the provisions of this act are inconsistent with the provisions of any general or special law, administrative order, or regulation, or any by-law, rule, regulation or code of the town, other than rules and regulations or orders of the board of health or by-laws of the town which require homes or facilities to be connected to the Littleton common smart sewer district sewer system involuntarily, the provisions of this act shall be controlling.

SECTION 15. This act shall take effect upon its passage.