

HOUSE No. 2237

The Commonwealth of Massachusetts

PRESENTED BY:

Christine P. Barber

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to address equal access to housing through local zoning.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>1/20/2017</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>10/24/2017</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>10/24/2017</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>10/24/2017</i>
<i>Bud Williams</i>	<i>11th Hampden</i>	<i>10/24/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>10/24/2017</i>

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By Ms. Barber of Somerville, a petition (accompanied by bill, House, No. 2237) of Christine P. Barber and others that zoning ordinances and by-laws provide districts containing multi-family housing. Housing.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act to address equal access to housing through local zoning.

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. Said chapter 40A is hereby further amended by inserting after section 3 the
2 following sections:-

3 Section 3A.

4 (a) For the purposes of this section, the following words shall have the following
5 meanings unless the context clearly requires otherwise:

6 “As of right”, development may proceed under a zoning ordinance or by-law without the
7 need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning
8 approval.

9 “Department”, the department of housing and community development.

10 “Eligible locations”, as defined in section 2 of chapter 40R.

11 “Gross density”, a units-per-acre density measurement that includes in the calculation
12 land occupied by public rights-of-way, recreational, civic, commercial and other non-residential
13 uses.

14 “Lot”, an area of land with definite boundaries that are used or available for use as the
15 site of a building.

16 “Multi-family housing”, a building with 3 or more residential dwelling units or 2 or more
17 buildings on the same lot with more than 1 residential dwelling unit in each building.

18 “Rural town”, a municipality with a population density of less than 500 persons per
19 square mile as determined by the most recent decennial federal census.

20 (b) Within 3 years of the effective date of this section, zoning ordinances and by-laws
21 shall provide at least 1 district in which multi-family housing is a permitted use as of right. For
22 the purposes of this section, districts shall satisfy the following minimum requirements: (i)
23 include multi-family housing without age restrictions which is suitable for families with children;
24 (ii) a minimum gross density of 8 units per acre in rural towns subject to any further limitations
25 imposed by section 40 of chapter 131 and title 5 of the state environmental code established by
26 section 13 of chapter 21A. All other municipalities shall have a minimum gross density of 15
27 units per acre; provided, however, that multi-family housing districts shall align to the extent
28 possible with existing or planned water, sewer and transportation infrastructure; (iii) be in
29 eligible locations; and (iv) accommodate a reasonable share of the regional need for multi-family
30 housing.

31 A city or town may satisfy the requirement of this subsection by obtaining a
32 determination from the department, acting directly or through a regional planning agency as its

33 designee, that the multi-family provisions of its zoning ordinance or by-law are consistent with
34 the department's guidelines established pursuant to subsection (c). If a city or town obtains a
35 determination from the department or regional planning agency under this section, the city or
36 town may use the determination as verification of compliance when applying for discretionary
37 funding by state agency programs that have included a preference or priority for multi-family
38 zoning pursuant to this section.

39 The department may waive or modify the requirements of this subsection for
40 municipalities if a determination is made that no eligible locations exist within a municipality.

41 (c) The department shall publish guidelines which shall be used to determine if a city or
42 town has satisfied the requirements established in subsection (b) of this section.

43 (2) If a zoning ordinance or by-law fails to comply with this section, the superior court or
44 the land court may award appropriate declaratory and injunctive relief in a civil action brought
45 by the attorney general on behalf of the department or by an aggrieved applicant for a local
46 permit.

47 SECTION 2. Said section 5 of said chapter 40A, as so appearing, is hereby further
48 amended by inserting after the word "meeting" in line 82, the following words:- "; provided,
49 however, that if a city or town has failed to meet the minimum requirements of section 3A, a
50 zoning ordinance or by-law that is consistent with these requirements shall be adopted by a vote
51 of a simple majority of all members of the town council or of the city council where there is a
52 commission form of government or a single branch or of each branch where there are 2 branches
53 or by a vote of a simple majority of town meeting".