

HOUSE No. 1296

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 relative to accessory dwelling units.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>1/12/2023</i>
<i>Christopher M. Markey</i>	<i>9th Bristol</i>	<i>1/19/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>1/20/2023</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>1/23/2023</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>	<i>1/26/2023</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>1/27/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>1/30/2023</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/1/2023</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>2/1/2023</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>2/8/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/11/2023</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>2/13/2023</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>2/15/2023</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>	<i>2/15/2023</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>	<i>2/16/2023</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>2/16/2023</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>	<i>2/16/2023</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>2/16/2023</i>

<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>2/16/2023</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>2/16/2023</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>2/16/2023</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>2/21/2023</i>
<i>Jennifer Balinsky Armini</i>	<i>8th Essex</i>	<i>2/21/2023</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>2/22/2023</i>
<i>Patricia A. Duffy</i>	<i>5th Hampden</i>	<i>2/22/2023</i>
<i>Simon Cataldo</i>	<i>14th Middlesex</i>	<i>2/23/2023</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>2/23/2023</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>2/23/2023</i>
<i>Samantha Montaño</i>	<i>15th Suffolk</i>	<i>2/24/2023</i>
<i>Patrick M. O'Connor</i>	<i>First Plymouth and Norfolk</i>	<i>3/2/2023</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>3/15/2023</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>3/21/2023</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>4/1/2023</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>7/20/2023</i>

HOUSE No. 1296

By Representative Barber of Somerville, a petition (accompanied by bill, House, No. 1296) of Christine P. Barber and others relative to accessory dwelling units. Housing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1370 OF 2021-2022.]

The Commonwealth of Massachusetts

—————
**In the One Hundred and Ninety-Third General Court
(2023-2024)**
—————

An Act relative to accessory dwelling units.

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. Section 3 of chapter 40A of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by inserting after the last paragraph the following 3
3 paragraphs:-

4 No zoning ordinance or by-law shall prohibit or require a special permit for the use of
5 land or structures for an accessory dwelling unit, or the rental thereof, in a single-family
6 residential zoning district on a lot with 5,000 square feet or more or on a lot of sufficient area to
7 meet the requirements of title 5 of the state environmental code established by section 13 of
8 chapter 21A, if applicable; provided, however, that the single-family dwelling or the accessory
9 dwelling unit is occupied by at least 1 person with disabilities or 1 person who is elderly.

10 As used in this section, “accessory dwelling unit” shall mean a self-contained housing
11 unit, inclusive of sleeping, cooking and sanitary facilities, incorporated within the same structure
12 as a single-family dwelling or in a detached accessory structure and that: (i) maintains a separate
13 entrance, either directly from the outside or through an entry hall or corridor shared with the
14 single dwelling; (ii) shall not be sold separately from the single family dwelling; (iii) is not
15 smaller in floor area than 450 square feet; (iv) may include up to two bedrooms; and (v) is not
16 larger in floor area than ½ the floor area of the single family dwelling or 900 square feet,
17 whichever is smaller; “person with disabilities” shall mean a person who has been determined to
18 be disabled (i) in accordance with criteria established by local by-law or ordinance, if any, or (ii)
19 by the Social Security Administration or MassHealth, notwithstanding any local by-law or
20 ordinance; and “elderly” shall mean a person sixty-five years of age or older.

21 The zoning ordinance or by-law may require that the single-family dwelling or the
22 accessory dwelling unit be owner-occupied and may limit the total number of accessory dwelling
23 units in the municipality to a percentage not lower than 5 percent of the total non-seasonal
24 housing units in the municipality. The use of land or structures for an accessory dwelling unit
25 may be subject to reasonable regulations concerning dimensional setbacks and the bulk and
26 height of structures. Not more than 1 additional parking space shall be required for an accessory
27 dwelling unit but, if parking is required for the single family dwelling, that parking shall either
28 be retained or replaced. An accessory dwelling unit allowed under this section is considered
29 owner-occupied upon transfer of title of the single-family dwelling in whole or in part to a trust
30 in which at least 1 beneficiary is a person with disabilities or a person who is elderly; provided,
31 however, that either the single-family dwelling or the accessory dwelling unit remains occupied
32 by that beneficiary. Nothing in this paragraph shall authorize an accessory dwelling unit to

33 violate the building, fire, health or sanitary codes, historic or wetlands laws, or ordinances or by-
34 laws.