

SENATE No. 904**The Commonwealth of Massachusetts**

PRESENTED BY:

Bruce E. Tarr

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:	
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>1/30/2023</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/2/2023</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>2/2/2023</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/6/2023</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>2/8/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/11/2023</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>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>2/16/2023</i>
<i>Patrick M. O'Connor</i>	<i>First Plymouth and Norfolk</i>	<i>3/2/2023</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>4/5/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>5/9/2023</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>9/22/2023</i>

SENATE No. 904

By Mr. Tarr, a petition (accompanied by bill, Senate, No. 904) of Bruce E. Tarr, Sal N. DiDomenico, Michael O. Moore, Hannah Kane and other members of the General Court for legislation relative to accessory dwelling units. Housing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 908 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 2018
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.

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

The zoning ordinance or by-law may require that the single-family dwelling or the accessory dwelling unit be owner-occupied and may limit the total number of accessory dwelling units in the municipality to a percentage not lower than 5 percent of the total non-seasonal housing units in the municipality. The use of land or structures for an accessory dwelling unit may be subject to reasonable regulations concerning dimensional setbacks and the bulk and height of structures. Not more than 1 additional parking space shall be required for an accessory dwelling unit but, if parking is required for the single family dwelling, that parking shall either be retained or replaced. An accessory dwelling unit allowed under this section is considered owner-occupied upon transfer of title of the single-family dwelling in whole or in part to a trust in which at least 1 beneficiary is a person with disabilities or a person who is elderly; provided, however, that either the single-family dwelling or the accessory dwelling unit remains occupied 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.