

**HOUSE . . . . . No. 1379**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Andres X. Vargas and Kevin G. Honan***

*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 promote Yes in My Back Yard.**

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Andres X. Vargas</i>	<i>3rd Essex</i>	<i>1/10/2023</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	<i>1/20/2023</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>1/25/2023</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>	<i>1/26/2023</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>1/26/2023</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>1/27/2023</i>
<i>Steven Owens</i>	<i>29th Middlesex</i>	<i>1/30/2023</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>1/30/2023</i>
<i>Carol A. Doherty</i>	<i>3rd Bristol</i>	<i>1/30/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>1/31/2023</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>1/31/2023</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>2/2/2023</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>2/3/2023</i>
<i>Samantha Montaño</i>	<i>15th Suffolk</i>	<i>2/3/2023</i>
<i>Jon Santiago</i>	<i>9th Suffolk</i>	<i>2/6/2023</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	<i>2/6/2023</i>
<i>Jennifer Balinsky Armini</i>	<i>8th Essex</i>	<i>2/8/2023</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/9/2023</i>

<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/10/2023</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>2/21/2023</i>
<i>Manny Cruz</i>	<i>7th Essex</i>	<i>2/23/2023</i>
<i>Peter Capano</i>	<i>11th Essex</i>	<i>3/14/2023</i>

**HOUSE . . . . . No. 1379**

By Representatives Vargas of Haverhill and Honan of Boston, a petition (accompanied by bill, House, No. 1379) of Andres X. Vargas, Kevin G. Honan and others for legislation to increase housing development. Housing.

**The Commonwealth of Massachusetts**

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

An Act to promote Yes in My Back Yard.

*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: Chapter 23A of the General Laws, as so appearing, is hereby amended by  
2 adding the following section:-

3 Section 68. In order to meet the housing needs of the Commonwealth, there is hereby  
4 established a statewide goal of producing 427,000 new units of housing in Massachusetts by  
5 2040. The housing production goal shall also include a goal of having 85,400 units of housing  
6 created by 2040 that are affordable to households earning less than 80% of the Area Median  
7 Income, with at least 8,500 of these affordable units for households earning less than 30 percent  
8 of the Area Median Income. The housing production goal shall also include a goal of having  
9 52,000 units for households earning between 80-120% of the Area Median Income.

10 The secretary of housing and economic development shall report annually to the clerks of  
11 the house of representatives and the senate, who shall forward the report to the house of  
12 representatives and the senate, the chairs of the joint committee on housing, and the chairs of the

13 senate and house committee on ways and means, on progress made towards meeting these  
14 housing production goals. The report shall include a breakdown of market-rate units created;  
15 units created that are accessible or adaptable for persons with disabilities; units created for  
16 persons over the age of 55; and units created by deed restricted affordable housing available to  
17 households earning less than 80% Area Median Income, less than 60% Area Median Income,  
18 and less than 30% Area Median Income. The secretary of housing and economic development  
19 shall also report annually on the number of residential properties purchased by foreign buyers in  
20 Massachusetts. As part of the report, the secretary of housing and economic development shall  
21 also include information on short term rentals collected as required by Chapter 337 of the Acts of  
22 2018. The secretary of housing and economic development shall also report annually on the  
23 number of units, broken down by municipality, on the Subsidized Housing Inventory as  
24 maintained by the Department of Housing and Community Development that are income  
25 restricted to income eligible households earning 80% or less than the area median income.

26 Section 2: Section 1A of Chapter 40A of the General Laws, as so appearing, is amended  
27 by inserting the following definition:

28 “Bus Station” means a building located at the intersection of two or more bus lines,  
29 within

30 which services are available to bus passengers; provided that a bus station does not  
31 include a shelter or other structure without walls and a foundation.

32 Chapter 40A, of the General Laws, as so appearing, is hereby amended by adding the  
33 following section:-

34 Section 18. (a) Any zoning regulations adopted pursuant to Chapter 40A shall allow, as  
35 of right and with no minimum parking requirements for dwelling units, mixed-use development  
36 or multifamily housing with a minimum gross density of 15 units per acre, subject to any further  
37 limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code  
38 established pursuant to section 13 of chapter 21A, and be located not more than 0.5 miles from a  
39 commuter rail station, subway station, ferry terminal or bus station, if applicable.

40 (b) Any zoning regulations adopted pursuant to Chapter 40A shall allow, as of right and  
41 with no minimum parking requirements for dwelling units, multifamily housing with a minimum  
42 gross density of 15 units per acre, subject to any further limitations imposed by section 40 of  
43 chapter 131 and title 5 of the state environmental code established pursuant to section 13 of  
44 chapter 21A, and be located not more than 0.25 miles from an eligible location.

45 (c) Any development permitted pursuant to subsections (a) or (b) which includes ten or  
46 more residential units shall set aside a minimum of fifteen percent of the residential units to  
47 households earning at or below 80% of the Area Median Income or a minimum of ten percent of  
48 the residential units to households earning at or below 50% of the Area Median Income as  
49 determined by the U.S. Department of Housing and Urban Development.

50 (d) If a municipality fails to adopt new regulations or amend existing regulations to  
51 comply with the provisions of this section by January 1, 2025, any noncompliant existing  
52 regulation shall become null and void and such municipality shall approve or deny applications  
53 in accordance with the requirements for regulations set forth in the provisions of this section  
54 until such municipality adopts or amends a regulation in compliance with this section.

55 (e) A municipality shall not use or impose standards to discourage through unreasonable  
56 costs or delays the development of housing described in this section.

57

58 Section 3: Section 1A of chapter 40A of the General Laws, as so appearing, is hereby  
59 amended so that the the definition of an accessory dwelling unit is:

60 “Accessory dwelling unit”, a self-contained housing unit, inclusive of sleeping, cooking  
61 and sanitary facilities, incorporated within the same structure as a primary dwelling unit or in a  
62 detached accessory structure that: (i) maintains a separate entrance, either directly from the  
63 outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet  
64 the requirements of the state building code for safe egress and (ii) is not larger in floor space than  
65  $\frac{1}{2}$  the floor space of the primary dwelling unit or 900 square feet, whichever is greater.

66 Section 3 of chapter 40A of the General Laws, as so appearing, is hereby amended by  
67 inserting after the last paragraph the following paragraphs:

68 No zoning ordinance or by-law shall prohibit or require a special permit for the use of  
69 land or structures for an accessory dwelling unit, or the rental thereof, in a residential or mixed-  
70 use zoning district.

71 The use of land or structures for an accessory dwelling unit may be subject to reasonable  
72 regulations, including but not limited to dimensional setbacks, short-term rentals of accessory  
73 dwelling units and the bulk and height of structures. However, a locality may not impose an  
74 ordinance that requires any of the following:

- 75           a.       Minimum floor space standards greater than is required by state law, as  
76 established in the state sanitary code, chapter II
- 77           b.       Maximum height standards less than 16 feet high
- 78           c.       Rear or side setback standards that exceed what is permitted under the local  
79 zoning code for the primary dwelling or what is applicable to the primary dwelling unit if it is a  
80 legally existing non-conforming unit
- 81           d.       Minimum lot size standards
- 82           e.       Discretionary design criteria distinct to ADUs that are not imposed on other  
83 residential buildings in that district.
- 84           f.       Off-street automobile parking requirements and minimum parking requirements  
85 greater than 1 per unit. Parking requirements may be satisfied through tandem driveway parking.
- 86           g.       Requirements that the owner of the property reside in either the primary dwelling  
87 or the accessory unit.

88           An accessory dwelling unit shall not be considered to exceed the allowable density for  
89 the lot upon which it is located.

90           Municipalities must adopt the naming convention and definition of an ADU as  
91 established herein.

92           A municipality that does not adopt an ordinance that permits Accessory Dwelling Units  
93 as specified in this section shall be subject to the standards established herein. Municipalities are  
94 encouraged to adopt less restrictive ordinances.

95           The Department of Housing and Community Development shall create and implement  
96 guidelines for which municipal regulations are permissible.

97           Nothing in this paragraph shall authorize an accessory dwelling unit to violate the  
98 environmental, building, fire, health or sanitary codes, historic or wetlands laws, or ordinances or  
99 by-laws.

100           Section 4: The following section is added to Chapter 40A of the Massachusetts General  
101 Laws:-

102           Section 19. (a) The purpose of this section shall be to promote and incentivize the reuse  
103 of vacant commercial parcels and properties for residential and mixed-use housing, by removing  
104 barriers to housing development and establishing a streamlined, ministerial approval process for  
105 those types of developments.

106           (b) A development proponent may submit an application for a housing development that  
107 shall be a use by right and that shall be subject to a streamlined, ministerial review established  
108 under section (d) if the proposed residential or mixed-use development satisfies all of the  
109 requirements established in section (c).

110           For the purposes of this section, "Vacant commercial parcel" shall mean any parcel of  
111 land zoned for commercial or mixed-use that has no legal structures or improvements on it.

112           "Vacant commercial property" shall mean a commercial or mixed-use building that is not  
113 currently legally occupied or in which no person(s) or entity conducts a lawfully licensed  
114 business.

115 (c) A development project shall be subject to the streamlined, ministerial review process  
116 provided by section (d) if the proposed development satisfies all of the following criteria:

117 1. It is located within a vacant property or on a vacant parcel in an area zoned for  
118 commercial or mixed-use purposes.

119 2. At least 20% of the residential floor space area is dedicated to units affordable to  
120 households earning up to 80% of the area median income as determined annually by the U.S  
121 Department of Housing and Urban Development

122 3. The development is a multi-family housing project

123 4. The development meets all applicable state environmental, fire, building health  
124 and sanitary codes, historic or wetlands laws, and any other applicable state ordinances or by-  
125 laws.

126 5. The residential density for the development either:

127 a. Meets or exceeds the minimum allowable residential density for the existing  
128 zoning designation for the parcel if existing zoning allows multifamily residential use; or

129 b. Meets or exceeds the minimum allowable residential density for the nearest  
130 zoning district that permits multi-family housing, if the current zone does not allow multi-family  
131 residential use

132 6. The development meets the objective zoning standards for the applicable zone  
133 established in subsection 5.

134 For the purposes of this section, objective zoning standards shall mean standards that  
135 involve no personal or subjective judgment by a public official and are uniformly verifiable by  
136 reference to an external and uniform benchmark or criterion available and knowable by both the  
137 development applicant or proponent and the public official before submittal. The applicable  
138 objective standards shall be those in effect at the time that the development application is  
139 submitted to the local government pursuant to this article.

140 No zoning ordinance or by-law may impose minimum automobile parking requirements,  
141 maximum density requirements or subjective design standards on a development application  
142 submitted pursuant to this section.

143 For the purposes of this section, subjective design standards shall mean standards that can  
144 be interpreted multiple ways, such as compatibility with neighboring properties or promoting  
145 harmony and balance in the community.

146 (d) If the local government determines that the proposed development meets the criteria  
147 established in section (c), it shall approve the project.

148 If the local government determines that the proposed development does not meet the  
149 criteria established in section (c), it shall provide the development proponent written  
150 documentation of which standard or standards the development conflicts with, and an  
151 explanation for the reason or reasons the development conflicts with that standard or standards,  
152 within the 60 days. If the local government fails to do so, the project shall be granted automatic  
153 approval.

154 Review of the application shall be conducted by the local agency, official, or board  
155 responsible for approving or rejecting housing development projects. That review shall be

156 objective and be strictly focused on assessing compliance with the criteria established in section  
157 (c), as well as any reasonable objective standards published and adopted by ordinance or  
158 resolution by a local jurisdiction, except those prohibited in section (c).

159 A local government may adopt an ordinance to implement the provisions of this article.

160 The Department of Housing and Community Development shall publish guidelines and  
161 coordinate with local governments to ensure compliance with the application process established  
162 by this law.

163 Section 5: Section 5 of Chapter 40A of the General Laws, as so appearing, is amended by  
164 inserting in paragraph 5 the following after ""in accordance with section 3 of chapter 40R."":-

165 (5) an inclusionary zoning ordinance or bylaw, that shall not unduly constrain the  
166 production of housing in the area impacted by the inclusionary zoning ordinance or bylaw. The  
167 Department of Housing and Community Development shall be responsible for developing  
168 guidelines to ensure that municipalities do not adopt inclusionary zoning ordinances or bylaws  
169 that constrain the production of housing in that community.

170 Section 6: The secretary of housing and economic development, secretary of energy and  
171 environmental affairs, the secretary of transportation, and the executive director of the  
172 Massachusetts Development Finance Agency shall jointly submit a report to the joint committee  
173 on housing identifying greyfields sites across the commonwealth, options for redevelopment or  
174 reuse that may include housing, public use or facilities, mixed use development, or natural  
175 restoration and open space, and identify programs within the appropriate state and quasi-public  
176 agencies that can be used to support communities in repurposing underutilized land.

177 For the purposes of this act, the term greyfields may include, but is not limited to, land  
178 with development that is outdated, underutilized, failing, or vacant, including commercial,  
179 residential, and industrial properties. This term may also include land that is owned by the  
180 commonwealth, its agencies, or its political subdivisions.

181 Section 7: Section 34 of Chapter 7C of the General Laws, as so appearing, are hereby  
182 amended by inserting the following paragraph:-

183 (c) Prior to disposition of publicly owned real property of the commonwealth pursuant to  
184 chapter 7C, the commissioner of capital asset management and maintenance in coordination with  
185 the secretary of the executive office of housing and economic development shall determine  
186 whether such real property shall be made available for low or moderate income housing pursuant  
187 to this chapter. In making such determination the commissioner and the secretary shall take into  
188 account the following factors:

189 (i) existing zoning that limits the siting of low or moderate income housing in the city or  
190 town in which the publicly owned real property is located;

191 (ii) financial or other deterrents to the production of low or moderate income housing in  
192 the city or town in which the real property is located; and

193 (iii) ensuring that real property for disposition under this chapter is fairly made available  
194 to all regions of the commonwealth, including gateway municipalities, rural areas and suburban  
195 areas.

196 Upon making the determination that publicly owned real property shall be made to  
197 available for disposition under this chapter, the commissioner and the secretary shall,

198 notwithstanding chapter 7C or any other law to the contrary, declare the property available for  
199 development of low or moderate income housing in accordance with this chapter.

200 Section 8: Section 13 of chapter 21A, as so appearing, is hereby amended by striking out  
201 the first paragraph and inserting in place thereof the following paragraph:-

202 “A board of health may adopt a local on-site sewage disposal systems regulation, only to  
203 the extent that it imposes standards or other requirements that are more stringent than or  
204 otherwise exceed those set forth in Title 5 of the State Environmental Code, 310 CMR 15.000,  
205 and only if, prior to adoption by the board of health, the Department of Environmental Protection  
206 shall review and approve any such proposed on-site sewage disposal systems regulation based  
207 upon findings that the proposed regulation has a generally recognized scientific basis, is a  
208 recommended best practice technique, is necessary to protect unusual local resources that  
209 warrant special or enhanced protection, and does not conflict with Title 5 of the State  
210 Environmental Code, 310 CMR 15.000.”