

**HOUSE . . . . . No. 00370**

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The Commonwealth of Massachusetts

PRESENTED BY:

*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 passage of the accompanying bill:

An Act to promote open space residential development.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>
<i>Cheryl A. Coakley-Rivera</i>	<i>10th Hampden</i>
<i>Michael J. Moran</i>	<i>18th Suffolk</i>

# HOUSE . . . . . No. 00370

By Mr. Kevin G. Honan of Boston, petition (accompanied by bill, House, No. 00370) of Michael J. Moran and others relative to requiring zoning ordinances or by-laws to provide for open space residential development. Joint Committee on Housing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE  
□ HOUSE  
□ , NO. 1219 OF 2009-2010.]

## The Commonwealth of Massachusetts

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**In the Year Two Thousand Eleven**  
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An Act to promote open space residential development.

*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 2008  
2 Official Edition, is hereby amended by inserting after the ninth paragraph the following  
3 paragaraph:—

4 No zoning ordinance or by-law shall prohibit or unreasonably regulate the use of land for  
5 open space residential development in any district zoned for residential use. For the purposes of  
6 the section, the term “open space residential development” shall be as defined in section 9.

7 SECTION 2. Section 9 of chapter 40A of the General Laws, as appearing in the 2008 Official  
8 Edition, is hereby amended by striking out, in line 33, the word “cluster” and inserting in place  
9 thereof the following:— open space residential

10 SECTION 3. Section 9 of chapter 40A of the General Laws, as so appearing, is hereby amended  
11 by striking out, in line 37, the word “cluster” and inserting in place thereof the following:— open  
12 space residential

13 SECTION 4. Section 9 of chapter 40A of the General Laws, as so appearing, is hereby amended  
14 by striking out the seventh paragraph and inserting in place thereof the following paragraph:—  
15 “Open space residential development” means a residential development in which the buildings  
16 and accessory uses are clustered together into one or more groups separated from adjacent  
17 property and other groups within the development by intervening open land. An open space  
18 residential development shall be permitted only on a plot of land of such minimum size as a  
19 zoning ordinance or by-law may specify which is divided into building lots with dimensional  
20 control, density and use restrictions of such building lots varying from those otherwise permitted  
21 by the ordinance or by-law and open land. Such open land when added to the building lots shall  
22 be at least equal in area to the land area required by the ordinance or by-law for the total number  
23 of units or buildings contemplated in the development. Such open land may be situated to  
24 promote and protect maximum solar access within the development. Such open land shall either  
25 be conveyed to the city or town and accepted by it for park or open space use, or be conveyed to  
26 a non-profit organization the principal purpose of which is the conservation of open space, or to  
27 be conveyed to a corporation or trust owned or to be owned by the owners of lots or residential  
28 units within the plot. If such a corporation or trust is utilized, ownership thereof shall pass with

29 conveyances of the lots or residential units. In any case where such land is not conveyed to the  
30 city or town, a restriction enforceable by the city or town shall be recorded providing that such  
31 land shall be kept in an open or natural state and not be built for residential use or developed for  
32 accessory uses such as parking or roadway.