HOUSE DOCKET, NO. 888 FILED ON: 1/19/2011

HOUSE . . . . . No. 370

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 adoption of the accompanying bill:

An Act to promote open space residential development.

PETITION OF:

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

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HOUSE . . . . . No. 370

By Mr. Honan of Boston, a petition (accompanied by bill, House, No. 370) of Kevin G. Honan, Cheryl A. Coakley-Rivera and Michael J. Moran relative to requiring zoning ordinances or by-laws to provide for open space residential development. Housing.

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

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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:

SECTION 1. Section 3 of chapter 40A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the ninth paragraph the following paragaraph:—

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

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

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

13 SECTION 4. Section 9 of chapter 40A of the General Laws, as so appearing, is hereby
14 amended by striking out the seventh paragraph and inserting in place thereof the following
15 paragraph:—

16 "Open space residential development" means a residential development in which the
17 buildings and accessory uses are clustered together into one or more groups separated from
18 adjacent property and other groups within the development by intervening open land. An open
19 space residential development shall be permitted only on a plot of land of such minimum size as
20 a zoning ordinance or by-law may specify which is divided into building lots with dimensional
21 control, density and use restrictions of such building lots varying from those otherwise permitted
22 by the ordinance or by-law and open land. Such open land when added to the building lots shall
23 be at least equal in area to the land area required by the ordinance or by-law for the total number
24 of units or buildings contemplated in the development. Such open land may be situated to
25 promote and protect maximum solar access within the development. Such open land shall either
26 be conveyed to the city or town and accepted by it for park or open space use, or be conveyed to
27 a non-profit organization the principal purpose of which is the conservation of open space, or to
28 be conveyed to a corporation or trust owned or to be owned by the owners of lots or residential
29 units within the plot. If such a corporation or trust is utilized, ownership thereof shall pass with
30 conveyances of the lots or residential units. In any case where such land is not conveyed to the
31 city or town, a restriction enforceable by the city or town shall be recorded providing that such

land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking or roadway.