

By Mr. Berry, a petition (accompanied by bill, Senate, No. 1044) of John Patrick Houston, William P. Nagle, Jr., Salvatore Ciccarelli, Charles W. Mann, Steven D. Pierce and Frederick E. Berry for legislation to clarify density incentives in cluster developments. Local Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Six.

AN ACT CLARIFYING DENSITY INCENTIVES IN CLUSTER DEVELOPMENTS.

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 9 of Chapter 40A of the General Laws as appearing
2 in the 1984 Official Edition, is hereby amended by striking out
3 the fifth paragraph and inserting in place thereof the following
4 new paragraph: —

5 “Cluster development” means a residential development in
6 which the buildings and accessory uses are clustered together
7 into one or more groups with intervening open land. A cluster
8 development shall be permitted only on a plot of land of such
9 minimum size as a zoning ordinance or by-law may specify
10 which is divided into building lots with dimensional control,
11 density and use restrictions of such building lots varying from
12 those otherwise permitted by the ordinance or by-law and open
13 land. Such a cluster by-law may provide for density of residen-
14 tial units which is greater than that otherwise allowed in the
15 district. The area or proportion of open land shall be at least
16 equal to the requirements of the cluster by-law. Such open
17 land shall either be conveyed to the city or town and accepted
18 by it for park or open space use, or be conveyed to a non-
19 profit organization the principal purpose of which is the con-
20 servation of open space, or to be conveyed to a corporation or
21 trust owned or to be owned by the owners of lots or residential
22 units within the plot. If such a corporation or trust is utilized,

23 ownership thereof shall pass with conveyances of the lots of
 24 residential units. In any case where such land is not conveyed
 25 to the city or town, a restriction enforceable by the city or town
 26 shall be recorded provided that such land shall be kept in an open
 27 or natural state and not be built for residential use or developed for
 28 accessory uses such as parking or roadway.