

By Mr. Honan of Boston, petition of Kevin G. Honan relative to requiring zoning ordinances or by-laws to provide for open space residential development. Housing.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO 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 9 of chapter 40A of the General Laws, as appearing in  
2 the 2002 Official Edition, is hereby amended by striking out the  
3 fifth, sixth and seventh paragraphs and inserting in place thereof  
4 the following paragraphs:—

5 Zoning ordinances or by-laws shall provide for open space resi-  
6 dential developments. Such ordinances or by-laws shall be  
7 adopted by cities and towns and shall provide that open space res-  
8 idential developments will be allowed either in a specific district  
9 or districts as a listed use within said district, or in multiple dis-  
10 tricts through overlay zoning. Such ordinances or by-laws may  
11 provide that open space residential developments shall be per-  
12 mitted upon the issuance of a special permit or upon review and  
13 approval by a planning board pursuant to the applicable provi-  
14 sions of sections 81K to 81GG, inclusive, of chapter 41 and in  
15 accordance with its rules and regulations governing subdivision  
16 control.

17 “Opens space residential development” means a residential  
18 development in which the buildings and accessory uses or struc-  
19 tures are clustered together into one or more groups separated  
20 from adjacent property and other groups within the development  
21 by intervening open land. An open space residential development  
22 shall be permitted only an a plot of land of such minimum size as  
23 a zoning ordinance or by-law may specify which is divided into  
24 building lots or designated building sites with dimensional con-

25 trol, density and use restrictions of such building lots varying  
26 from those otherwise permitted by the ordinance or by-law. The  
27 open land in such developments shall either be conveyed to the  
28 city or town for park, recreation, conservation, historic preserva-  
29 tion, agriculture, forestry or any combination of such uses, or be  
30 conveyed to a non-profit corporation, the principal purpose of  
31 which is the conservation of open space or the furtherance of the  
32 uses set forth above, or be conveyed to a corporation or trust  
33 owned or to be owned by the owners of lots or units within the  
34 parcel. If a lot or unit owner corporation or trust is utilized, own-  
35 ership of the open land shall pass proportionally to each lot or unit  
36 owner. In any case where such land is not conveyed to the city or  
37 town, as restriction which is enforceable by the city or town shall  
38 be recorded providing that such land shall be kept in an open or  
39 natural state or used in a manner set forth above and not be built  
40 for residential use.

41 Zoning ordinances or by-laws may also provide that planned  
42 unit developments shall be permitted upon the issuance of a  
43 special permit.