

SENATE No. 1148

The Commonwealth of Massachusetts

PRESENTED BY:

Kathleen O'Connor Ives

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 promoting open space residential development.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Kathleen O'Connor Ives</i>	<i>First Essex</i>	
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>	<i>2/3/2017</i>

SENATE No. 1148

By Ms. O'Connor Ives, a petition (accompanied by bill, Senate, No. 1148) of Kathleen O'Connor Ives and Paul Brodeur for legislation to promote open space residential development. Municipalities and Regional Government.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act promoting 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 Be it enacted by the Senate and House of Representatives in General Court assembled,
2 and by the authority of the same, as follows:

3 SECTION 1. Section 3 of chapter 40A of the General Laws, as appearing in the 2014
4 Official Edition, is hereby amended by inserting after the ninth paragraph the following
5 paragraph:—

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

9 SECTION 2. Section 9 of chapter 40A of the General Laws, as appearing in the 2014
10 Official Edition, is hereby amended by striking out, in line 33, the word “cluster” and inserting in
11 place thereof the following:— open space residential

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

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

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

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