



Commonwealth of Massachusetts
EXECUTIVE OFFICE OF HOUSING &
LIVABLE COMMUNITIES

Maura T. Healey, Governor ◆ Kimberley Driscoll, Lieutenant Governor ◆ Edward M. Augustus Jr., Secretary

Via email: jmercier@carlislema.gov

September 26, 2025

Julie Mercier
Town Planner
66 Westford Street
Carlisle, MA 01741

Re: Carlisle - Pre-Adoption Feedback for Compliance with Section 3A of the Zoning Act (Section 3A)

Dear Ms. Mercier,

The Executive Office of Housing and Livable Communities (EOHLC) received four pre-adoption review applications from the Town of Carlisle on August 13, 2025, requesting that EOHLC review each proposal for compliance based on the criteria set forth in Section 3A and 760 CMR 72.00 (the Regulations). As discussed in a meeting between EOHLC and the Town of Carlisle that took place on September 18, 2025, EOHLC believes that one of the four proposals demonstrates a viable path towards achieving compliance with Section 3A.

EOHLC appreciates all the work the Town has done to prepare for compliance with Section 3A. After meeting with town officials and conducting a careful review and analysis, EOHLC has the following technical feedback to aid the Town. We hope the descriptions of technical corrections will assist the Town in creating zoning that can be deemed compliant. The MBTA Communities program staff are available to work through these details with you and your staff.

Carlisle is designated as an Adjacent Small Town with 1,897 existing housing units per the 2020 United States Decennial Census. The Town is required to have a district with a minimum multi-family unit capacity of 95 units and a gross density of at least 15 dwelling units per acre.

Proposal One: The One Site Approach (“Proposal 1”)

EOHLC identified the following issues which may affect Proposal 1’s compliance with Section 3A and the Regulations:

- Proposal 1’s submitted compliance model does not include the 95 housing units per lot maximum set forth in Table 5.13.6.1. Adding this cap to the model’s checklist parameters reduces the District’s gross density to below 15 units per acre. The 95 unit maximum limit will need to be removed from the zoning (or increased) to meet Section 3A’s minimum gross density requirement.

If Carlisle makes the necessary technical correction to address the above-mentioned concern, adopting Proposal 1 will put the Town in a strong position to ultimately comply with Section 3A. One way to solve this issue is to remove the unit cap in the zoning.

Proposal Two: The Cluster Development Approach (“Proposal 2”)

EOHLC identified the following issues which may affect Proposal 2’s compliance with Section 3A and the Regulations:

- Section 72.05(1)(a)3 of the Regulations addresses contiguity and applies to all MBTA communities, of every Community Category. It provides that “no portion of the district that is less than five contiguous acres of land will count toward the minimum size requirement” unless all requirements are met in an area of less than five acres. Furthermore, Section 72.05(1) states that “reasonable size” is determined considering both land area, and Multi-family unit capacity. Therefore, any portion of a district that is less than five contiguous acres of land cannot contribute towards either the land area or the Multi-family unit capacity component of reasonable size, unless all requirements are met within that area. This requirement is distinct from Section 72.05(1)(a)2 of the Regulations which addresses minimum land area requirements and exempts Adjacent small towns. Proposal 2 designates certain “development areas” within larger parcels, and requires all areas outside of designated “development areas” to be protected open space and to be conveyed to the Town or its Conservation Commission, or to be subject to a recorded restriction enforceable by the Town. Under this scheme, those open space areas are unavailable for development and cannot contribute towards meeting the five-acre contiguity threshold set forth in Section 72.05(1)(a)3. Even if Carlisle could use areas outside of the “development area” towards satisfying Section 72.05(1)(a)3, it would need to include those areas in the density denominator for calculating Gross Density.

- Section 72.05(1)(a)3 of the Regulations requires that at least half of the Multi-family zoning district land area comprises contiguous lots of land. If Carlisle proposes to designate certain “development areas” where Proposal 2’s zoning rules apply, then this requirement must be satisfied by those development areas.

Proposal Three: “Scattered Sites Permutation One” (“Proposal 3”)

- Section 72.05(1)(a)3 of the Regulations addresses contiguity and applies to all MBTA communities, of every Community Category. It provides that “no portion of the district that is less than five contiguous acres of land will count toward the minimum size requirement” unless all requirements are met in an area of less than five acres. Furthermore, Section 72.05(1) states that “reasonable size” is determined considering both land area, and Multi-family unit capacity. Therefore, any portion of a district that is less than five contiguous acres of land cannot contribute towards either the land area or the Multi-family unit capacity component of reasonable size, unless all requirements are met within that area. This requirement is distinct from Section 72.05(1)(a)2 of the Regulations, which addresses minimum land area requirements and exempts Adjacent small towns. Proposal 3 designates certain “development areas”, purportedly allowing development of up three units, covering 8,712 square feet of land, in which all site disturbances must take place. It requires all areas outside of designated “development areas” to be protected open space and to be conveyed to the Town or its Conservation Commission or other conservation entity, or to be subject to a perpetual conservation restriction enforceable by the Town or other conservation entity. Under this scheme, those open space areas are unavailable for development and cannot contribute towards meeting the five-acre contiguity threshold set forth in Section 72.05(1)(a)3. Even if Carlisle could use areas outside of the “development area” towards satisfying Section 72.05(1)(a)3, it would need to include those areas in the density denominator for calculating Gross Density.

Proposal Four: “Scattered Sites Permutation Two” (“Proposal 4”)

- Section 72.05(1)(a)3 of the Regulations addresses contiguity and applies to all MBTA communities, of every Community Category. It provides that “no portion of the district that is less than five contiguous acres of land will count toward the minimum size requirement” unless all requirements are met in an area of less

than five acres. Furthermore, Section 72.05(1) states that “reasonable size” is determined considering both land area, and Multi-family unit capacity. Therefore, any portion of a district that is less than five contiguous acres of land cannot contribute towards either the land area or the Multi-family unit capacity component of reasonable size, unless all requirements are met within that area. This requirement is distinct from Section 72.05(1)(a)2 of the Regulations which addresses minimum land area requirements and exempts Adjacent small towns. Proposal 4 designates certain “development areas”, purportedly allowing development of up three units, covering 8,712 square feet of land, in which all site disturbances must take place. It requires all areas outside of designated “development areas” to be protected open space and to be conveyed to the Town or its Conservation Commission or other conservation entity, or to be subject to a perpetual conservation restriction enforceable by the Town or other conservation entity. Under this scheme, those open space areas are unavailable for development and cannot contribute towards meeting the five-acre contiguity threshold set forth in Section 72.05(1)(a)3. Even if Carlisle could use areas outside of the “development area” towards satisfying Section 72.05(1)(a)3, it would need to include those areas in the density denominator for calculating Gross Density.

Feedback Applicable to All Proposals

- Section 5.13.5.1b of each proposal attempts to calculate “gross density” in a manner that conflicts with the definition of Gross Density set forth in the Zoning Act and with the formula required for estimating gross density set forth in the Regulations. Gross Density is defined in G.L. c. 40A Section 1A, is calculated according to the Regulations, and it cannot be manipulated by local zoning that is used to comply with Section 3A.
- Each proposal limits “gross density” per parcel to 15 units per acre. Gross density is neighborhood-scale measurement of density, defined in G.L. c. 40A Section 1A, and it cannot be applied at an individual parcel level. The submitted compliance models do calculate density caps as “net density” and they rely on net density estimates to measure district-wide gross density outputs. Therefore, the description of this density cap in the zoning bylaw should be changed to “net density” or simply “density”.
- EOHLC recommends consulting with Town Counsel regarding the *Adoption of Regulations* Section of each proposal, to ensure that any future regulations do not

interfere with the development of multi-family housing, as-of-right within the district.

- This feedback relies on EOHLIC's assumption that any requirements for "Pork Chop Lots" set forth in the zoning bylaw that are stricter than requirements in the District do not apply in the District. If they do apply to the District, Carlisle must identify affected parcels and input the appropriate parameters into the compliance model.
- Each proposal involves a requirement that certain portions of land within the District be conveyed to the Town, its conservation commission, or similar conservation entity or be subject to a deed restriction for permanently protected open space. EOHLIC cautions that this requirement conflicts with the "As of Right" requirement of Section 3A and recommends consulting with Town Counsel and the Office of the Attorney General.
- Any future determination of compliance for the District will caution the Town against applying the development standards and design standards set forth the proposed districts in a discretionary manner, or in a manner inconsistent with as of right zoning requirements of G.L. c. 40A Sections 1A and 3A.
- EOHLIC recommends reviewing Section 5.13.11 and Section 7.6 Site Plan Review to ensure that the standards set forth are objective and nondiscretionary, and consulting with Town Counsel to ensure that this section aligns with the existing case law concerning site plan review for as of right uses.
- The GIS shapefile submitted for district compliance will need to adhere to the GIS submittal standards, found at EOHLIC MBTA Communities GIS Data Submittal Standards. Specifically, each subdistrict listed in the Compliance Model should be reflected as such in the GIS shapefile. The shapefile must also include all required fields and content in the Attribute Table.
- If a zoning map amendment is required for this bylaw change, please ensure that it occurs before applying for district compliance.

For the foregoing reasons, EOHLIC recommends that the Town address the issues outlined before applying for District Compliance. Please note that this pre-adoption review is limited to the specific issues identified at this stage of review and is based on materials provided by the Town of Carlisle. It does not constitute a representation that resolution of the identified issues would result in a compliant zoning district. EOHLIC

encourages the Town to review its existing zoning carefully to make sure there are no provisions that would affect the proposed zoning districts.

MBTA Communities staff at EOHLIC will meet with you and your staff should you want to review the details of this letter. If you have questions or need further assistance regarding this determination, please contact MBTA Communities Compliance Coordinator Nathan Carlucci, at nathan.carlucci@mass.gov.

Sincerely,

A handwritten signature in blue ink that reads "Caroline 'Chris' Kluchman". The signature is fluid and cursive, with the first name "Caroline" written in a larger, more prominent script than the last name "Kluchman".

Caroline "Chris" Kluchman
Director, Livable Communities Division

cc: Senator Michael Barrett, Mike.Barrett@masenate.gov
Representative Simon Cataldo, Simon.Cataldo@mahouse.gov