



Commonwealth of Massachusetts
**EXECUTIVE OFFICE OF HOUSING &
LIVABLE COMMUNITIES**

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

Via Email: jfeeney@town.arlington.ma.us

February 12, 2024

James Feeney
Town Manager
Town of Arlington
730 Massachusetts Avenue
Arlington, MA 01852

Re: Arlington - District Compliance Determination for MBTA Communities under Section 3A of the Zoning Act (Section 3A)

Dear Mr. Feeney:

The Executive Office of Housing and Livable Communities (EOHLC) received a district compliance application from the Town of Arlington submitted electronically on November 19, 2023 and revised December 21, 2023. The application requested that EOHLC grant a determination of compliance for the Town of Arlington's "Mass Ave/Broadway Multifamily District" and "Neighborhood Multifamily District" zoning districts (District), based on the criteria set forth in the Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act (Guidelines). After careful review and analysis, EOHLC has determined that Arlington is **compliant** with Section 3A, as it finds that Arlington meets, or exceeds, the requirements of Section 3A and the Guidelines.

Arlington is designated as an adjacent community with 20,461 existing housing units per the 2020 United States Decennial Census. The Town is required to have a district with a minimum land area of 32 acres, and a minimum multi-family unit capacity of 2,046 units.

EOHLC conducted a thorough review of the application, and made the following determinations:

1. The district comprises **115.5 acres**.
2. As of right multi-family unit capacity for the district is estimated at **3,120 units**.
3. The gross density of the District is estimated at **27.24 dwelling units per acre**.
4. At least **fifty (50%) percent** of the District is one contiguous land area.
5. The multi-family housing allowed as of right in the District is suitable for families with children pursuant to Section 3A and Section 7 of the Guidelines.
6. There are no dimensional zoning requirements not captured by the compliance model that are likely to substantially affect the District's estimated multi-family unit capacity.

7. Taken as a whole, the District meets the land area, multi-family unit capacity, gross density, and contiguity requirements of Section 3A and the Guidelines.

The following table shows the **required** District minimums, the estimates **submitted** in the District application, and estimates as **determined** by EOHLIC following its review:

	Required	Submitted	Determined
Land area (acres)	32	127.2	115.5
Multi-family unit capacity (units)	2,046	3,348	3,120
Gross density (units per acre)	15	26.8	27.24
One 50% contiguous area	Yes	Yes	Yes

EOHLIC determinations differ from the application estimates for the following reasons:

- EOHLIC removed the Neighborhood Multifamily Heights North subdistrict, because it appeared to be substantially affected by the Floodplain District and Inland Wetland District. Since the submitted District meets approval criteria without including the capacity of the affected parcels, EOHLIC did not review the flood zone and inland wetland permitting process to determine whether it is consistent with the as of right zoning requirements of Section 3A.

EOHLIC identified the following **additional factors** that could affect as of right multi-family housing development in the District:

1. Developments in the District are subject to site plan review pursuant to Section 5.9.3 of Arlington’s zoning bylaw. The standards set forth in the site plan review, referencing the standards (but not procedures) in Environmental Design Review, are consistent with the requirements of Section 4.a. of the Guidelines. However, since there is no site plan review procedure described in the zoning bylaw, EOHLIC specifically notes that the procedures described in Environmental Design Review would not be consistent with the requirements of Section 3A if they were used in connection with site plan review.
2. Section 5.9G of Arlington’s zoning bylaw requires that developments in the district meet the affordable housing requirements set forth in Section 8.2 if/when EOHLIC approves an economic feasibility analysis as described in the Guidelines. Section 5.9G also states that “Until the Massachusetts Executive Office of Housing and Livable Communities (EOHLIC) approves using the requirements of Section 8.2 for housing built under Section 5.9 of this Bylaw, the affordability requirements are those allowed in the EOHLIC Compliance Guidelines for Chapter 40A, Section 3A: that ten percent of the dwelling units shall be affordable, and the cap on the income of families or individuals who are eligible to occupy the affordable units is not less than 80 percent of area median income, or such other applicable Guidelines as EOHLIC shall issue.” Since no economic feasibility analysis was submitted with this application, this determination is based on the requirement for ten percent of dwelling units to be affordable, and the cap on income of not less than 80 percent of area median income.

Based on the information provided in the Application, EOHLC has determined that Arlington meets or exceeds the requirements set forth by Section 3A and the Guidelines and is currently **compliant** with Section 3A of M.G.L. c. 40A.

Please note that continued district compliance is **conditioned** upon the following requirements:

- The Attorney General's approval of the zoning amendments affecting the District have not yet been approved. EOHLC is aware that the Attorney General's office has informed the town that there was a procedural flaw in the zoning amendment process and that the town is working to address the procedural flaw. EOHLC will revisit this determination if there are changes to the zoning that was adopted at its fall Town Meeting.
- Municipalities must notify EOHLC in writing of any proposed or active zoning amendment that affects the District, or of any other by-law, ordinance, rule, regulation, or municipal action that limits the development of multi-family housing in the District. This notification must be sent to EOHLC3A@mass.gov prior to any planning board public hearing on the proposed zoning amendment.
- Site plan review conducted in connection with **additional factor 1** above must not effectively reduce the estimated multi-family unit capacity of the District. If site plan review does reduce the estimated multi-family unit capacity of the District, EOHLC may revisit Arlington's compliance with Section 3A, and could require the Town to remedy any deficiency with amendments to its zoning.
- EOHLC may establish a system to monitor compliance over time to ensure that approved districts allow multi-family housing in accordance with the criteria under which they were approved.
- EOHLC may rescind a determination of district compliance or require changes to the District to remain in compliance as per Section 10 of the Guidelines.

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,



Edward M. Augustus, Jr.
Secretary

cc: Senator Cindy F. Friedman
Representative David M. Rogers