

FRANKLIN PLANNING & COMMUNITY DEVELOPMENT

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MEMORANDUM

TO: JAMIE HELLEN, TOWN ADMINISTRATOR
FROM: BRYAN W. TABERNER, AICP, DIRECTOR
RE: PROPOSED BYLAW AMENDMENT – TASTING ROOM DEFINITION
DATE: FEBRUARY 20, 2021
**CC: MARK CEREL, TOWN ATTORNEY; GUS BROWN, ZONING ENFORCEMENT;
AMY LOVE, TOWN PLANNER; CHRISSEY WHELTON, ASSISTANT TO THE
TOWN ADMINISTRATOR**

In June 2017 Franklin Town Council approved three Zoning Bylaw amendments that collectively allow a brewery, distillery, or winery that holds a Farmer Series Pouring License to have a Tasting Room. One of the amendments, Zoning Bylaw Amendment 17-788, added a definition for a “Tasting Room” in Section 185-3 Definitions of Franklin’s Town Code.

It has come to the attention of the Town Administrator, Building Commissioner, Economic Development Committee, and the Department of Planning and Community Development that the definition of Tasting Room in Section 185-3 has created problems for at least one business in Franklin. In addition, the Tasting Room definition has impeded the efforts of others from starting a Farmers Series brewery, distillery, or winery; without changes to the definition this will likely continue in the future. The current Tasting Room definition is as follows:

TASTING ROOM: A room attached to a brewery, distillery, or winery that allows patrons to sample or consume wine, beer, or other alcoholic beverages that are produced on-site in accordance with M.G.L. c. 138. A tasting room may not be greater than twenty-five (25) percent of the main building's gross square footage.

Tasting Room Size Restriction. The problem identified with the definition is the restriction on size of a Tasting Room. Limiting a Tasting Room to 25 percent of the main building's gross square footage was similar to Franklin’s limitation on retail uses in any manufacturing facility. The primary use is manufacturing (in this case *brewery, distillery, or winery*); the accessory use (limited to 25%) is display and sale of product manufactured on site. Treating a Tasting Room as a normal accessory to manufacturing use is our problem.

While working on development of the above mentioned Zoning Bylaw Amendments and Tasting Room definition, Town staff did a substantial amount of research on the Zoning requirements and restrictions of other communities that allow Farmer Series Pouring Licenses. Franklin’s Zoning Bylaw requirements for Tasting Rooms are very similar to those of other communities researched in 2017. Limiting Tasting Rooms by maximum percentage of the whole facility is fairly common, although limiting Tasting Rooms to 33% was more common than 25%.

Town staff originally proposed limiting Tasting Rooms to 33% of the main building's gross square footage, but during the Planning Board public hearing the Board recommended changing to 25%, as that was the norm for accessory uses to manufacturing facilities. The zoning amendment was revised to 25% and approved by Town Council.

There is a substantial difference between a Tasting Room and uses that are normally accessory to manufacturing facilities. Normally a manufacturer's accessory display and retail/wholesale sales area is relatively small in comparison to the manufacturing area. With a brewery, distillery, or winery, the non-manufacturing area is substantially more than a display area and counter for sales.

In addition to selling malt, spirituous, or vinous beverages by the bottle to consumers for off premises consumption, a Commonwealth of Massachusetts issued Farmer Series Pouring License, once approved by the Local Licensing Authority, allows alcoholic beverages produced by the manufacturer to be consumed on the premises. Therefore the size of the Tasting Room needs to include areas for customers to sit or stand and drink the manufacturer's beverages. It has also become common practice for customers to bring their own food, or contact a local restaurant for delivery, in which case customers are in the building for good lengths of time. In addition, the facility is allowed to host marketing events, special events, and factory tours.

By limiting the percentage of building square footage, businesses may not be able to buildout the size and type Tasting Room that works best for a specific location. It was never the intent of the Town's 2017 Zoning Bylaw Amendments to make it difficult for individuals wishing to start a Farmers Series brewery, distillery, or winery to have a Tasting Room that is not big enough for a business to prosper; this does appear to happen in some cases.

All this is to say a Tasting Room, although an accessory use to the primary beverage manufacturing use, may need to be substantially larger than 25% (or even 33%) of the building's size. The exact percentage of total building square feet does not appear to be the best way to regulate the accessory use.

DPCD recommends the Tasting Room definition be amended by making two changes:

1. Delete the following sentence: "A tasting room may not be greater than 25% of the main building's gross square footage".
2. Add in its place the following sentence: "A tasting room is an accessory use to the primary brewery, distillery, or winery use".

The Tasting Room accessory use would continue to be regulated as it is currently; the only difference is there would be no specific percentage restriction on the Tasting Room's size. A Planning Board special permit would be required. The Board can require changes to the applicant's proposed plans in a variety of ways, including separating the manufacturer and Tasting Room entrances and public access; limiting the number of seats based on Building, Engineering and Health Departments' input and related regulations; requiring sufficient parking; and or other restrictions specific to each sites individual characteristics.

DPCD staff believe it is in the community's best interest to amend the Tasting Room definition. Attached is Zoning Bylaw Amendment 21-872 for review and consideration. Please let me know if you have questions or require additional information.



SPONSOR: *Town Administration*

**TOWN OF FRANKLIN
ZONING BY-LAW AMENDMENT 21-872
DEFINITIONS. TASTING ROOM**

**A ZONING BY-LAW TO AMEND THE FRANKLIN TOWN CODE AT
CHAPTER 185, SECTION 3.**

BE IT ENACTED BY THE FRANKLIN TOWN COUNCIL THAT:

Chapter 185 of the Code of the Town of Franklin is hereby amended by the following **additions** and **deletions** to §185-3 Definitions:

TASTING ROOM: A room attached to a brewery, distillery, or winery that allows patrons to sample or consume wine, beer, or other alcoholic beverages that are produced on site in accordance with M.G.L. c. 138. ~~A tasting room may not be greater than 25% of the main building's gross square footage.~~ **A tasting room is an accessory use to the primary brewery, distillery, or winery use.**

The foregoing Zoning By-law amendment shall take effect in accordance with the Franklin Home Rule Charter and Massachusetts General Law Chapter 40A, Section 5.

DATED: _____, 2021

VOTED:

UNANIMOUS _____

A True Record Attest:

YES _____ **NO** _____

ABSTAIN _____

Nancy Danello

ABSENT _____

Temporary Town Clerk

RECUSED _____

**Glenn Jones, Clerk
Franklin Town Council**

Town of Franklin



Planning Board

PUBLIC HEARING NOTICE

The following notice will be published in the Milford Daily Newspaper on April 12, 2021 and again on April 19, 2021.

FRANKLIN PLANNING BOARD PUBLIC HEARING NOTICE

In accordance with the provisions of M.G.L. Chapter 40A, Section 5, notice is hereby given that the Planning Board will hold a Remote Public Hearing on April 26, 2021 at 7:05 PM and the Town Council will hold a Public Hearing on May 5, 2021 at 7:10 PM in the Town Council Chambers of the Municipal Building, 355 East Central Street, to consider amending Chapter 185, Sections 3, of the Code of the Town of Franklin, Zoning By-Law as follows:

ZONING BY-LAWS PROPOSED BY THE FRANKLIN TOWN ADMINISTRATION TO AMEND THE FRANKLIN TOWN CODE CHAPTER 185, SECTIONS 3,

Bylaw Amendment 21-872: Changes to §185-3. Definitions. Chapter 185 of the Code of the Town of Franklin will be amended by adding Brewery, Distillery, or Winery Production with Tasting Room definition to §185-3.

The exact text of the proposed zoning bylaw amendments is posted on the website along with the hearing notice.

Please contact the Department of Planning & Community Development at 508-520-4907 if you require further information or if you need to make arrangements to provide translation services for the hearing impaired or for persons with language barriers.

Anthony Padula, Chairman
Franklin Planning Board

Thomas Mercer, Chairman
Franklin Town Council