

FRANKLIN PLANNING & COMMUNITY DEVELOPMENT

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MEMORANDUM

TO: JAMIE HELLEN, TOWN ADMINISTRATOR
FROM: BRYAN W. TABERNER, AICP, DIRECTOR
**RE: PROPOSED ZONING BYLAW AMENDMENT 19-842. IMPERVIOUS COVERAGE
IN WATER RESOURCE DISTRICT**
**CC: MARK CEREL, TOWN ATTORNEY; AMY LOVE, PLANNER;
GUS BROWN, BUILDING COMMISSIONER, CHRISSEY WHELTON**
DATE: MAY 29, 2019

It has been brought to the attention of Department of Planning and Community Development (DPCD) and other Town staff that there is discrepancy in Franklin's Zoning Bylaw between Sections 185-40.D(1)(l)(ii) and 185-40.D(3)(a). The discrepancy was created in 2013 with approval of Zoning Bylaw Amendment 13-703, which added new language to Section 185-40.D.(1); at that time Section 185-40.D(3)(a) should have been deleted.

Section 185-40.D(1)(l)(ii) allows for impervious coverage up to 80% of upland area of a lot located within the Water Resource District for nonresidential uses.

Section 185-40.D(3)(a) states any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater, requires a special permit.

Zoning Bylaw Amendment 19-842 would remove subsection 185-40.D(3)(a), and re-letter the remaining subsections in 185-40.D(3); these changes eliminate the discrepancy between Sections 185-40.D(1) and 185-40.D(3).

In addition, small changes are proposed for Section 185-40.D(1)(l)(ii); this Subsection does not currently address residential uses within a nonresidential zoning district. The proposed changes would address the issue by treating all development in nonresidential zoning districts the same regardless of use.

If Town Council supports the proposed changes, DPCD recommends they refer Zoning By-law Amendment 19-842 to the Planning Board for a Public Hearing. Please let me know if you have questions or require additional clarification.

**TOWN OF FRANKLIN
ZONING BY-LAW AMENDMENT 19-842**

CHANGES TO §185-40. WATER RESOURCE DISTRICT

**A ZONING BY-LAW TO AMEND THE FRANKLIN TOWN CODE
AT CHAPTER 185, SECTION 40.D**

BE IT ENACTED BY THE FRANKLIN TOWN COUNCIL THAT:

Chapter 185 of the Code of the Town of Franklin is hereby amended by **adding** and **deleting** the following text at §185-40. **Water Resource District**, subsections D.(1) and D.(3)

D. Use regulations. The Water Resource District shall be considered to be superimposed over any other district established in this chapter. Land in the Water Resource District may be used for any use otherwise permitted in the underlying district, subject to the following limitations:

(1) Prohibitions. The following are prohibited on any lot or portion of a lot within a Water Resource District:

(l) Impervious coverage.

(i) Residential zones:

Residential use: Rendering impervious coverage more than 15% or 2,500 square feet, whichever is greater, of the upland area of a lot located within the Water Resource District is only permitted for residential uses within a residential zone by a special permit from the Zoning Board of Appeals (ZBA).

Nonresidential uses: Rendering impervious coverage more than 15% or 2,500 square feet, whichever is greater, of the upland area of a lot located within the Water Resource District is only permitted for nonresidential uses within a residential zone by a special permit from the Planning Board.

(ii) Nonresidential zones:

~~Nonresidential uses:~~ Rendering impervious coverage up to 80% of the upland area of a lot located within the Water Resource District is permitted **only** in nonresidential zones provided an application for site plan approval has been provided.

An applicant for site plan approval must provide artificial recharge that does not degrade groundwater quality. The proposed water recharge efforts shall be permitted only upon the approval of a hydrogeologist retained by the Town of Franklin at the expense of the applicant, under the provisions of MGL c. 44, § 53G.

(3) Uses permitted only by special permit. The following uses are permitted only by special permit:

~~(a) Any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater. Artificial recharge must be provided that does not degrade groundwater quality. See Subsection D(1)(1) above.~~

~~(b)~~(a) Activities involving the handling of toxic or hazardous materials in quantities greater than those associated with normal household use.

~~(c)~~(b) The construction of dams or other water control devices or water bodies or courses created for recreational or agricultural uses or drainage uses.

~~(d)~~(c) The application of pesticides or fertilizers for nondomestic or nonagricultural uses.

This by-law Amendment shall become effective in accordance with the provisions of the Franklin Home Rule Charter and M.G.L. c.40A, §5.

DATED: _____, 2019

VOTED:

UNANIMOUS _____

A True Record Attest:

YES _____ **NO** _____

Teresa M. Burr
Town Clerk

ABSTAIN _____

ABSENT _____

RECUSED _____

Glenn Jones, Clerk