

# Town of Franklin

355 East Central Street  
Franklin, Massachusetts 02038-1352



Phone: (508) 520-4949  
www.franklinma.gov

OFFICE OF THE TOWN ADMINISTRATOR

## Memorandum

June 4, 2021

To: Town Council  
From: Jamie Hellen, Town Administrator

**Re: Resolution 21-872 - Tasting Room Definition**

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Before you tonight is a proposed Zoning Bylaw Amendment to modify the definition of a tasting room. A tasting room is 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. The former bylaw stated that a tasting room “may not be greater than 25% of the main building's gross square footage”. This bylaw will strike that former language and redefine a tasting room as an “accessory use to the primary brewery, distillery, or winery use”.

In the packet you will find:

1. A memo from Bryan Taberner, Director of Planning and Community Development, from February 19, 2021 regarding the tasting room definition.
2. The Legal Ad sent out by the Planning board published in the Milford Daily news 4/12/21 and 4/19/21.
3. Planning Boards recommendation - 4-1-0 vote on May 10, 2021.
4. Original Memo from Jamie Hellen, Town Administrator, to the Town Council written June 1, 2017.
5. Zoning Bylaw Amendment 21-872.

If you have any additional questions please feel free to ask.

# **FRANKLIN PLANNING & COMMUNITY DEVELOPMENT**

355 EAST CENTRAL STREET, ROOM 120  
FRANKLIN, MA 02038-1352

TELEPHONE: 508-520-4907  
FAX: 508-520-4906

## **MEMORANDUM**

**TO: JAMIE HELLEN, TOWN ADMINISTRATOR**  
**FROM: BRYAN W. TABERNER, AICP, DIRECTOR**  
**RE: PROPOSED BYLAW AMENDMENT – TASTING ROOM DEFINITION**  
**DATE: FEBRUARY 19, 2021**  
**CC: MARK CEREL, TOWN ATTORNEY; GUS BROWN, ZONING ENFORCEMENT;  
AMY LOVE, TOWN PLANNER; CHRISSEY WHELTON, ASSISTANT TO THE  
TOWN ADMINISTRATOR**

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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 a draft Zoning Bylaw Amendment for review and consideration. Please let me know if you have questions or require additional information.

# 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.

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### 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

# Town of Franklin



## Planning Board

May 11, 2021

Nancy Danello, Acting Town Clerk  
Town of Franklin  
355 East Central Street  
Franklin, MA 02038

### **CERTIFICATE OF VOTE**

Zoning By-law Amendment #21-872  
Tasting Room Definition

Dear Mrs. Danello:

Please be advised that at its meeting on Monday, May 10, 2020 the Planning Board, upon motion duly made and seconded, voted (4-1-0) to **RECOMMEND**, *as presented*, to the Town Council the amendment of Zoning By-law #21-872, Tasting Room Definition.

If you have any questions concerning this decision, please contact the planning staff or me.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony Padula", is written over the word "Sincerely,".

Anthony Padula  
Chairman, Planning Board

cc: Town Council  
Town Administrator

# Town of Franklin

Town Administrator  
Tel: (508) 520-4949



Fax: (508) 520-4903

355 East Central Street  
Franklin, Massachusetts 02038-1352

## MEMORANDUM

June 1, 2017

To: Town Council

From: Jamie Hellen

**RE: Zoning bylaws – Brewery, Distillery, Winery with a tasting room**

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The proposal before the Town Council is to create a new use in the Town's zoning code by allowing for the production of beer, wine and spirits with an option of establishing a retail on premises (tasting room bar) or off-premises (take home, bottle, can, growler) business.

The proposal was presented and approved by the Economic Development Committee in late March.

The following are some bullet points to consider:

1. The proposed zoning will allow for the production of beer, wine or spirits and/or an optional tasting room in the following zoning districts: Business, Commercial I, Commercial II, Industrial, and Downtown Commercial District.
2. Production and retail will be prohibited in all residential districts.
3. The proposed zoning will allow for any producer to have a tasting room at no more than 25% of the total square footage of the structure. I want to note this is slightly smaller than the original proposal. The Planning Board voted to allow 25% of floor space, which the town staff supports. This number is commensurate with some other communities who have similar zoning.
4. A manufacturer may also have a restaurant or serve food prepared on site, but will need to go through the normal Board of Health related procedures for kitchens and receive a Common Victualler's license from the Administrator's Office. Keep in mind one note:
  - a. If a producer desires to serve on premises and obtain a Common Victualler's License to

prepare food on site, they will be limited to selling *only* their manufactured beer, wine, or spirit products. They may not import and sell any other alcoholic products because the law would require them to seek a traditional "Section 12" alcohol on-premises license like every other restaurant in town.

5. There is nothing in the bylaw that would prohibit a "BYOF" ("Bring Your Own Food") policy at an establishment. But this feature is a policy that would be put in place by each establishment.
6. Entertainment licenses may also be granted through normal procedures through the Town Administrator's office (TV's, juke box, live entertainment, etc.).
7. The following is the process for someone who ONLY desires to produce beer, wine or spirits:
  - a. Receive a Farmer's Farmer Series Production License from the state Alcohol Beverages Control Commission (ABCC).
  - b. Proceed through traditional Special Permit process in Town.
8. The following is the process for someone who wants BOTH to produce and serve the manufactured products on the premises with a tasting room bar:
  - a. Receive a Farmer's Farmer Series Production License from the state Alcohol Beverages Control Commission (ABCC).
  - b. Proceed through the traditional special permit process in Town.
  - c. Apply for a "Farmer Series Pouring License" to the Local Licensing Authority (Town Council)
    - i. The process to receive this license is the same as every other Section 12 license restaurant in town, including legal notification, abutters' notification, liquor liability insurance, and other requirements outlined in the application and town policy.



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:** \_\_\_\_\_

**YES:** \_\_\_\_\_ **NO:** \_\_\_\_\_

**ABSTAIN:** \_\_\_\_\_

**ABSENT:** \_\_\_\_\_

**A True Record Attest:**

**Nancy Danello, CMC  
Temporary Town Clerk**

\_\_\_\_\_  
**Glenn Jones, Clerk  
Franklin Town Council**