

# Proposal to Amend Madbury Zoning Ordinances Article III, Definitions First Draft – 17 Oct 21

## **Proposal:**

Add “condominium” to zoning ordinance definitions to correct an oversight in the current ordinances that prevents Madbury from regulating condominium developments.

## **Background:**

In accordance with RSA 365-B, town ordinances must expressly address regulating condominiums for towns to legally regulate such developments. Since Madbury’s ordinances currently make no reference to condominiums, Madbury lacks jurisdiction to regulate their development.<sup>1</sup>

Adding the following definition will allow Madbury to regulate the physical development of condominiums under existing Subdivision Regulations. This addition will not allow Madbury to regulate the existence or administration of a condominium agreement.

## **Proposed Changes:**

1. Add the following to Zoning Ordinances Article III, Definitions:

“**CONDOMINIUM:** A building or group of buildings in which units are owned individually, and the common structures, areas, and facilities are owned by all owners on a proportional undivided basis. Condominiums shall be considered a subdivision and reviewed accordingly.”<sup>2</sup>

2. Suggest adding the following to the proposed addition above as a last sentence:

“Conversion of a two family home into a Condominium does not require subdivision review.”

3. Suggest adding the following phrase (**highlighted in green**) to the existing Subdivision Definition to account for the regulation of future condominium development of a lot in accordance with legal rulings:

“**SUB-DIVISION:** The division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, **condominium conveyance**, or of building development. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under these regulations.

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<sup>1</sup> Per legal advice to Madbury, 6 October 2021

<sup>2</sup> Text is based on Durham’s definition with a slight word order change **highlighted in yellow**: “**Condominium** – A building or group of buildings in which units are owned individually, and the **structure, common** areas, and facilities are owned by all owners on a proportional undivided basis. Condominiums shall be considered a subdivision and reviewed accordingly.”