

Proposal to Amend Madbury Zoning Ordinances Article III, Definitions Second Draft – 21 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.¹

Adding the following 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 structure(s), areas, and facilities are owned by all owners on a proportional undivided basis. Condominiums shall be considered a subdivision and reviewed accordingly.”²

2. Add the following phrase (*italicized and highlighted in green*) to the existing Subdivision Definition:

“**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.

¹ Per legal advice to Madbury, 6 October 2021

²Text 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.”