

Proposal to Amend Madbury Zoning Ordinances Article III, Definitions Third Draft – 17 Nov 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 development of condominiums under existing Subdivision Regulations. The addition will not change Madbury’s underlying Zoning. The proposed changes are aligned with language in other communities.

Proposed Change:

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.

Example Condominium Language From Nearby Communities:

Barrington uses reference to RSA 672:14 for its definition of subdivision which includes “condominium conveyance”

Durham uses “condominium conveyance” in subdivision definition. It also defines condominium as, “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”.

¹ Per legal advice to Madbury, 6 October 2021

² Text is based on Durham’s definition.

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Dover goes against the trend and says, “A condominium conveyance, per RSA 356-B, shall not require Planning Board approval.”

Lee’s definition of subdivision includes “condominium development or conversion”. Lee also has a 12-part definition of condominium and an entire section regulating condominiums.

New Market uses “condominium conveyance” in its subdivision definition.

Nottingham uses “condominium conveyance” in subdivision definition. Also references under multi-family developments

Rollinsford does not use “condominium conveyance” in its subdivision definition. It does have three part definition of condominium the core of which is reference to RSA 356-B. Note I did not see specific reference to regulating.

Somersworth uses “condominium conveyance” in its subdivision definition. It also defines condominium as “A building or group of buildings in which units are owned individually and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis. An owner’s association maintains, administers and operates the common areas and facilities. Condominium is a legal form of ownership of real estate, not a specific building style. The property is identified in a master deed and recorded on a plat with Strafford County Register of Deeds”.

Rochester uses “condominium conveyance” and reference to RSA 672:14.