

To: Madbury Planning Board
From: Liz Durfee
Date: March 19, 2021

Subject: Definition of Hazardous Material

Below are several definitions of hazardous materials for the Board to consider incorporating into the Definitions section of the Zoning Ordinance.

The term *hazardous material* is found in the following locations of the Town's Ordinance and Land Use Regulations:

- ZO Article V-B (Home Occupations) Section 2 and Section 8
- ZO Article XI (Telecommunication Facilities Overlay District) Section 7
- Site Plan Review Regulations Article VII (Standards) Section 12

[NH RSA 147-B:2\(VIII\)](#)

"Hazardous materials" means those substances or materials in such quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce, by all modes which may include, but are not limited to, explosives, radioactive materials, etiologic agents, flammable liquids or solids, combustible liquids or solids, poisons, oxidizing or corrosive materials, and compressed gases which are listed by the Materials Transportation Bureau of the United States Department of Transportation in Title 49 of the Code of Federal Regulations, as amended.

(Note: this definition is used by the [City of Rochester](#) in their Zoning Ordinance and is based on the US DOT definition)

[US Department of Transportation \(DOT\)](#)

Material (including an explosive, radioactive material, infectious substance, flammable or combustible liquid, solid, or gas, toxic, oxidizing, or corrosive material, and compressed gas) or a group or class of material as hazardous when the Secretary determines that transporting the material in commerce in a particular amount and form may pose an unreasonable risk to health and safety or property.

[US Department of Labor Occupational Safety and Health Administration \(OSHA\)](#)

Hazardous substance means any substance designated or listed under (A) through (D) of this definition, exposure to which results or may result in adverse effects on the health or safety of employees:

[A] Any substance defined under section 103(14) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) (42 U.S.C. 9601).

[B] Any biologic agent and other disease causing agent which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any person, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations in such persons or their offspring.

[C] Any substance listed by the U.S. Department of Transportation as hazardous materials under 49 CFR

172.101 and appendices; and
[D] Hazardous waste as herein defined.

Hazardous waste means --

[A] A waste or combination of wastes as defined in 40 CFR 261.3, or

[B] Those substances defined as hazardous wastes in 49 CFR 171.8.

City of Dover Zoning Ordinance Definition

HAZARDOUS WASTE/MATERIAL means a material, waste or combination of materials or wastes which, because of the quantity, concentration or infectious characteristics, may cause or significantly contribute to illness or present a substantial hazard to health, safety or welfare or to the environment.