

**ARTICLE 1304
ALLOWED USES IN PRIMARILY
NON-RESIDENTIAL DISTRICTS**

1304.01 **Allowed Uses in Primarily Non-Residential Districts.** Unless otherwise provided by State or Federal law or specifically stated in this Ordinance (including Section 1302.05), any land or structure shall only be used or occupied for a use specifically listed in these Articles 1303 or 1304 as being allowed in the Zoning District where the land or structure is located. Such uses shall only be allowed if the use complies with all other requirements of this Ordinance.

For manufacturing uses, the types of uses listed in this Article correspond approximately to the categories of the North American Classification System, administered by the U.S. Department of Commerce. In case of question about the categorization, such system shall be consulted.

City of Lebanon Zoning Ordinance – As Adopted June 22, 2020

TYPES OF USES (See definitions in Article 15)	ZONING DISTRICTS					
	OI***	CG	CBD	CN	LIC	GIC
a. RESIDENTIAL USES						
Single Family Detached Dwelling (Note - Manufactured/mobile homes shall meet the additional requirements of Section 1306.02)	P	P	P*	P	N	N
Single Family Semi-Detached Dwelling (side-by-side)	P	P	P*	P	N	N
Townhouse (Single Family Attached Dwelling) (See 1306.02)	P	P	P*	P	N	N
Multi-Family (Apartment) Dwellings (See 1306.02), which may be in the same building or on the same lot as allowed non-residential uses.	P	P*	P*	P	N	N
Boarding House (includes Rooming House) (See 1306.02) (other than uses listed separately in this table)	N	SE	N	N	N	N
Manufactured/Mobile Home Park (See 1306.02)	N	N	N	N	N	SE
Group Home within a lawful existing dwelling unit (See 1306.02), not including a Treatment Center	P	P	P	P	N	N
Live Work Unit (See 1306.02)	P	P	P	P	N	N
Conversion of an Existing Building that was Constructed for Principal Institutional or Industrial Uses into Multi-Family Residential Uses or Live Work Units (See 1306.02)	SE	P*	P*	P	SE**	SE**
Single Room Occupancy Use with On-Site Supervision (See 1306.02)	N	SE	SE	N	N	N
Transitional Housing (See 1306.02)	SE	P	SE	SE	P	P
b. COMMERCIAL USES						
Adult Use (See 1306.02)	N	N	N	N	N	SE
After Hours Club - To the extent this use is not already prohibited by State Act 219 of 1990 (See 1306.02)	N	N	N	N	N	SE
Airport (see also "Heliport")	N	N	N	N	N	SE
Amusement Arcade	N	P	P	P	N	N
Amusement Park or Water Park ****	N	SE	N	N	P	P
Animal Cemetery (See 1306.02)	N	N	N	N	N	P
Animal Day Care (See 1306.02)	N	SE	N	N	P	P
Arena, Auditorium (Commercial), Performing Arts Center or Exhibition-Trade Show Center	N	P	P	P	P	P

- * = Such housing shall be limited to being in the same building as a principal commercial use(s) that occupies the majority of the street level, which may include a Live Work Unit.
- ** = Shall be limited to a building on a lot that is abutting or directly across a street or alley from a Residential, CBD or Municipal Recreation zoning district.
- *** = See limits on hours of operation in Section 1304.05.
- **** = The use shall not be open to customers after 10 PM if the use is not within an enclosed building and is within 300 feet from an existing dwelling. Outdoor recreation areas shall be enclosed by 6 feet high fencing and/or a building.
- P = Permitted by right use (zoning decision by Zoning Officer)
- SE = Special exception use (zoning decision by Zoning Hearing Board)
- N = Not permitted
- (See 1306.02 or 1306.03) = See Additional Requirements in Sections 1306.02 or 1306.03

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TYPES OF USES (See definitions in Article 1315)	ZONING DISTRICTS					
	OI***	CG	CBD	CN	LIC	GIC
b. COMMERCIAL USES (Cont.)						
Auto Body Shop or Auto Repair Garage (See 1306.02), and provided that parking shall be prohibited on a sidewalk within the right-of-way	N	P	N	N	N	SE
Auto, Boat or Mobile/Manufactured Home Sales (See 1306.02)	N	P	N	N	N	P
Auto Service Station, which may occur with a convenience store, and which may also include fueling of vehicles using hydrogen, liquefied natural gas, propane or similar fuels (See 1306.02) For a use that primarily serves tractor-trailer trucks, see “Truck Stop” in this table.	N	P	N	N	N	N
Bakery, Retail	P	P	P	P	P	P
Bed and Breakfast Inn (See 1306.03)	P	P	P	P	N	N
Beverage Distributor (wholesale and/or retail)	N	P	P	P	P	P
Bus Maintenance or Storage Yard	N	P	N	N	P	P
Bus, Taxi or Passenger Rail Terminal	N	P	P	P	P	P
BYOB Club (Note- definition is limited to a use that is open after midnight)(See 1306.02)	N	SE	SE	N	N	N
Car Wash (See 1306.02)	N	P	N	P	P	P
Catering, Custom, for Off-Site Consumption	P	P	P	P	P	P
Communications Antennae, Commercial (See 1306.02), limited to accessory antenna attached to specified types of structures by Section 1306.02	P	P	P	P	P	P
Communications Tower, Commercial (See 1306.02), or other antennae that are not allowed under the above accessory provision	N	SE	SE	N	SE	SE
Conference Center or Exposition Center	N	P	P	P	P	P
Construction Company or Tradesperson's Headquarters (including but not limited to landscaping, building trades or janitorial contractor). See also as Home Occupation. Accessory outdoor storage shall be permitted provided it meets the screening requirements of Section 1313.03.	N	P	P*	P*	P	P
Convenience Store, which may be combined with a Gas Station only if the requirements for a Gas Station are met and if a gas station is allowed in the district.	N	P	P	P	N	N
Crafts or Artisan's Studio	P	P	P	P	P	P
Custom Printing, Copying, Faxing, Mailing or Courier Service and similar services to businesses	P	P	P	P	P	P
Dog Day Care - See Animal Day Care						
Exercise Club	P	P	P	P	P	P
Financial Institution; includes banks, with Drive-Through facilities only allowed in the CBD District if the applicant proves to the City that the access has been designed to minimize conflicts with pedestrian traffic along sidewalks and to meet Drive-Through Provisions in Section 1306.03.	P	P	P	P	P	P

* = A maximum of 25% of lot shall be used for outdoor storage.

*** = See limits on hours of operation in Section 1304.05.

P = Permitted by right use (zoning decision by Zoning Officer)

SE = Special exception use (zoning decision by Zoning Hearing Board) = Not permitted

(See 1306.02 or 1306.03) = See Additional Requirements in Sections 1306.02 or 1306.03

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TYPES OF USES (See definitions in Article 1315)	ZONING DISTRICTS					
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b. COMMERCIAL USES (Cont.)						
Flea Market/ Auction House	N	P	P	P	P	P
Food Truck, other than operation at any location for less than 15 minutes per day and except for City-approved special events (See 1306.03)	N	P	N	N	N	P
Funeral Home (See crematorium listed separately under Institutional Uses)	P	P	P	P	P	P
Gaming Facility, Licensed, other than small games of chance allowed under State law and the State Lottery	N	N	N	N	N	SE
Gas Station - See "Auto Service Station" in this table.						
Heliport (See 1306.02)	N	N	N	N	SE	SE
Hotel or Motel (See 1306.02)	N	P	P	P	P	P
Kennel (See 1306.02)	N	N	N	N	SE	SE
Laundromat	P	P	P	P	P	P
Laundry, Commercial or Industrial	N	P	N	N	P	P
Lumber Yard	N	N	N	P	P	P
Medical Marijuana Dispensary (See 1306.02)	N	P	P	N	P	P
Micro-brewery or Micro-distillery (which may be in combination with a restaurant or tavern)	N	P	P	P	P	P
Motor Vehicle Racetrack, Outdoor	N	N	N	N	N	N
Nightclub	N	SE	SE	N	SE	SE
Office (May include medical clinics or labs)	P	P	P	P	P	P
Pawn Shop	N	P	P	P	N	N
Personal Services (includes tailoring, check cashing, custom dressmaking, haircutting/styling, dog grooming, travel agency, drycleaning, shoe repair, "massage therapy, certified" and closely similar uses)	P	P	P	P	P	P
Plant Nursery (other than a Retail Store)	P	P	P	P	P	P
Propane Retail Distributor, other than pre-packaged sales, with a 150 feet minimum setback required between any storage or dispensing facilities and any Residential District, and with Fire Department review.	N	N	N	N	N	SE
Recording Studio, Music	P	P	P	P	P	P
Recreation, Commercial Indoor (includes bowling alley, roller or ice skating rink, batting practice, and closely similar uses); other than uses listed separately in this Article 1304	N	P	P	P	P	P
Recreation, Commercial Outdoor (including miniature golf course, golf driving range, archery, horseback riding, paintball and closely similar uses); other than uses listed separately in this Article 1304.	N	P	P	P	P	P
Repair Service, Household Appliance	P	P	P	P	P	P

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(See 1306.02 or 1306.03) = See Additional Requirements in Sections 1306.02 or 1306.03

TYPES OF USES (See definitions in Article 1315)	ZONING DISTRICTS					
	OI***	CG	CBD	CN	LIC	GIC
b. COMMERCIAL USES (Cont.)						
Restaurant (includes Banquet Hall) (See 1306.02), other than a Tavern or Nightclub						
– with drive-through service (See 1306.03)	N	P**	N	N	N	N
– without drive-through service.	P****	P	P	P	N	N
(Sidewalk Cafes or Food Carts are listed separately below.)						
Retail Store (not including uses listed individually in this Article 1304). Any drive-through facilities shall meet Section 1306.03 and shall be limited to the CG district.						
This use may include rental of items or check cashing.	P	P	P	P	P	P
Self-Storage Development (See 1306.02)	N	P	SE*	P	P	P
Shopping Center	N	P	P	P	P	P
Sidewalk Café or Food Cart as an accessory use (See 1306.03)	P	P	P	P	P	P
Target Range, Firearms						
– Completely indoor and enclosed	N	P	P	P	P	P
– Other than above, with a barrier that the applicant proves is sufficient to protect public safety	N	N	N	N	N	SE
Tattoo Parlor or Body Piercing (other than temporary tattoos or ear piercing which are personal service uses)	N	P	N	P	P	P
Tavern, other than a Nightclub	N	P	SE	SE	P	P
Television or Radio Broadcasting Studios	P	P	P	P	P	P
Theater, Indoor Movie or Live Theater, other than an Adult Establishment	N	P	P	P	P	P
Trade / Hobby School	P	P	P	P	P	P
Truck Stop that primarily serves tractor-trailer trucks	N	N	N	N	N	SE
Veterinarian Office (See 1306.02)	P	P	P	P	P	P
Visitor Center providing education and promotional information	P	P	P	P	P	P
Wholesale Sales - see under Industrial Uses						
c. INSTITUTIONAL / SEMI-PUBLIC USES						
Cemetery (See 1306.02); see Crematorium listed separately	N	N	N	N	N	N
College or University - Educational, Recreational, Office or Support Uses (See also Residential Uses, which are addressed separately)	P	P	P	P	P	P
Community Recreation Center (limited to a government sponsored or non-profit facility) or Library	P	P	P	P	P	P
Crematorium (See 1306.02)	N	N	N	N	SE	SE
Criminal Halfway House or Day Reporting Center (See 1306.02)	N	N	N	N	N	SE
Cultural Center or Museum	P	P	P	P	P	P
Day Care Center, Adult or Child (See 1306.02) (See also as an accessory use)	SE	P	P	P	SE	SE

* = Limited to within a building that existed prior to the adoption of this Ordinance, in space that is not street level.
 ** = If the use will be open between midnight and 6 AM, the use and its parking areas shall be setback a minimum of 200 feet from any existing or approved dwellings.
 *** = See limits on hours of operation in Section 1304.05.
 **** = Limited to locations on Cumberland, Walnut, Willow, 7th, 8th or 10th Streets.
 P = Permitted by right use (zoning decision by Zoning Officer)
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	OI***	CG	CBD	CN	LIC	GIC
c. INSTITUTIONAL / SEMI-PUBLIC USES (Cont.)						
Dormitory - See under Residential Uses in this table						
Emergency Services Station or Training Facility	P	P	P	P	P	P
Hospital or Surgery Center or Related Testing and Treatment Facilities	P	P	P	P	P	P
Membership Club meeting & non-commercial recreational facilities, provided that such use shall not be open between 2 & 6 AM, & provided that such use shall only be allowed in combination with another use if the other use is allowed in that District and if the requirements for that use are also met. (See 1306.02)	SE	P	P	P	P	P
Nursing Home or Personal Care Home/Assisted Living Facility or Hospice (See 1306.02)	P	P	P	P	P	SE
Place of Worship (See 1306.02) (includes Church)	P	P	P	P	P	P
School, Public or Private, Primary or Secondary (See 1306.02)	P	P	P	P	N	N
Temporary and/or Emergency Shelter (See 1306.02) (Note - This ordinance does not regulate a temporary shelter as an accessory use to a place of worship that operates less than 30 total days in any 90 day period).	N	SE	N	N	N	SE
Treatment Center (See 1306.02)	N	N	N	N	N	SE
d. PUBLIC/SEMI-PUBLIC USES						
City Government Uses and Facilities, such as Public Works Facilities.	P	P	P	P	P	P
Government Facility, other than offices and other than uses listed separately in this Article	SE	P	P	P	P	P
Prison or Similar Correctional Institution	N	N	N	N	N	SE
Publicly Owned or Operated Park	P	P	P	P	P	P
Public Utility Facility, other than City-owned facilities & other than uses listed separately in this Article. See also Section 1306.02	SE	SE	SE	SE	SE	P
Sewage Pump Stations	P	P	P	P	P	P
Swimming Pool, Non-household (See 1306.02)	P	P	P	P	P	P
U.S. Postal Service Facility or Substation	P	P	P	P	P	P
e. INDUSTRIAL USES						
Asphalt Plant	N	N	N	N	N	SE
Assembly or Finishing of Products Using Materials Produced Elsewhere (such as products from plastics manufactured off-site)	N	SE	N	N	P	P
Building Supplies and Building Materials, Wholesale Sales of Distribution as a principal use (other than Trucking Company Terminal)	N	P	N	P	P	P
Electric Power Generating Plant (Other than Putrescent Solid Waste to Energy, Solar Energy or Wind Turbines)	N	N	N	N	P	P

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	OI***	CG	CBD	CN	LIC	GIC
e. INDUSTRIAL USES (Cont.)						
Gas or Oil Wells (See 1306.02)	N	N	N	N	N	SE
Industrial Equipment Sales, Rental and Service, other than involving trucks and trailers primarily intended to be operated on public streets	N	P	N	N	P	P
Incineration of Hazardous or Toxic Waste, other than may have been previously approved within an existing waste-to-energy plant	N	N	N	N	N	SE
Junk - outdoor storage, display or processing of, other than within an approved junkyard or solid waste disposal facility	N	N	N	N	N	N
Junk Yard (See 1306.02) (includes scrapyards)	N	N	N	N	N	SE
Liquid or Gas Fuel Storage, Bulk, for off-site distribution, which shall require a 150 foot setback from a Residential District and review by the Fire Department of any proposed facilities; other than: auto service station, propane distributor as listed separately, pre-packaged sales or fuel tanks for company vehicles	N	N	N	N	N	SE
Manufacture and/or bulk processing of the following, provided manufacturing occurs only indoors:						
– Agricultural Chemicals, Fertilizers or Pesticides	N	N	N	N	N	SE
– Apparel, Textiles, Shoes and Apparel Accessories (see also Crafts Studio)	N	P	N	P	P	P
– Cement Manufacture	N	N	N	N	N	SE
– Ceramics Products (other than Crafts Studio)	N	N	N	N	P	P
– Chemicals, Manufacture or Bulk Processing of, other than pharmaceuticals and types listed separately	N	N	N	N	N	SE
– Clay, Brick, Tile and Refractory Products	N	N	N	N	P	P
– Computers; Electronic & Microelectronic Products	N	P	N	P	P	P
– Concrete, Lime and Gypsum Products, other than actual manufacture of cement	N	N	N	N	N	P
– Electrical Equipment, Appliances & Components	N	P	N	N	P	P
– Explosives, Fireworks or Ammunition	N	N	N	N	N	SE
– Fabricated Metal Products (except Explosives, Fireworks or Ammunition) and/or Machine Shops	N	N	N	N	P	P
– Food and Beverage Products, at an industrial scale as opposed to a clearly retail scale (which may include aquaculture)	N	P	N	P	P	P
– Glass & Glass Products (other than Crafts Studio)	N	N	N	N	P	P
– Jewelry and Silverware	N	P	N	N	P	P
– Leather and Allied Products (other than Crafts Studio or Tannery)	N	N	N	N	P	P
– Machinery or Gaskets	N	N	N	N	P	P
– Manufactured or Modular Housing Manufacture	N	N	N	N	P	P

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	OI***	CG	CBD	CN	LIC	GIC
e. INDUSTRIAL USES (Cont.)						
Manufacture and/or bulk processing of the following, provided manufacturing occurs only indoors:						
– Medical Equipment and Supplies	N	P	N	N	P	P
– Metal Products, Primary	N	N	N	N	SE	P
– Mineral Products, Non-metallic (other than Mineral Extraction)	N	N	N	N	P	P
– Paper and Paper Products (including recycling, but not including manufacture of raw paper pulp)	N	P	N	N	P	P
– Paper - Raw Pulp	N	N	N	N	N	P
– Paving Materials, other than bulk manufacture of asphalt	N	N	N	N	N	P
– Pharmaceuticals and Medicines	N	N	N	N	P	P
– Plastics, Polymers, Resins, Vinyl, Coatings, Cleaning Compounds, Soaps, Adhesives, Paints, or Ink	N	N	N	N	SE	P
– Products from Previously Manufactured Materials, such as glass, leather, plastics, cellophane, textiles, rubber or synthetic rubber	N	P	N	N	P	P
– Roofing Materials and Asphalt Saturated Materials or Natural or Synthetic Rubber	N	N	N	N	SE	P
– Scientific, Electronic and Other Precision Instruments	N	P	P	N	P	P
– Sporting Goods, Toys, Games, Musical Instruments or Signs	N	P	P	P	P	P
– Transportation Equipment, including installing mechanical additions to trucks and trailers	N	N	N	N	P	P
– Wood Products and Furniture (not including raw paper pulp)	N	P	P	P	P	P
– See Section 1306.02 for uses that are not listed						
Medical Marijuana Grower / Processor (See 1306.02)	N	P	N	N	P	P
Mineral Extraction (See 1306.02) and related processing, stockpiling and storage of materials removed from the site, other than as part of preparation of a development site	N	N	N	N	N	SE
Packaging	N	P	P	P	P	P
Package Delivery Services Distribution Center	N	P	N	N	P	P
Petroleum Refining or Manufacture or Bulk Storage of Ethanol or similar fuels for off-site use	N	N	N	N	N	SE
Pipeline Compressor Station (such as for natural gas), which shall be constructed within an enclosed structure with sound absorbing walls	N	N	N	N	N	SE
Printing or Bookbinding	N	P	P	P	P	P

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e. INDUSTRIAL USES (Cont.)						
Recycling Center, Bulk Processing, provided all operations of an industrial scale occur within an enclosed building (this use does not include a solid waste disposal or transfer facility)	N	N	N	N	SE	P
Research and Development, Engineering or Testing Facility or Laboratory (other than medical laboratories, which is considered an office use) and related manufacture of prototypes	N	N	N	N	P	P
Sawmill/ Planing Mill	N	N	N	N	N	P
Slaughterhouse, Stockyard or Tannery, with a 400 feet minimum setback from all lot lines	N	N	N	N	N	SE
Solid Waste Landfill	N	N	N	N	N	N
Solid Waste Transfer Facility or Putrescent Waste to Energy Facility (See 1306.02)	N	N	N	N	N	SE
Trucking Company Terminal	N	N	N	N	SE	P
Warehousing or Storage as a principal use	N	N	N	N	P	P
Warehousing or Storage as an on-site accessory use or serving principal uses located or allowed within the same zoning district	P	P	P	P	P	P
Welding	N	N	N	N	P	P
Wholesale Sales (other than Motor Vehicles)	N	P	SE	P	P	P
f. ACCESSORY USES						
See list of additional permitted uses in Section C., such as “Residential Accessory Structure or Use”						
See Additional Requirements in Section 1306.03 for Specific Accessory Uses						
Bus Passenger Shelter, which may include an advertising sign (See 1306.03)	P	P	P	P	P	P
Composting, other than leaves, vegetation or materials generated on-site which are permitted by right	N	N	N	N	SE	P
Day Care Center accessory to and on the same lot as an existing lawful Place of Worship	P	P	P	P	P	P
Day Care (See 1306.03) as accessory to a lawful dwelling, of the following number of persons, in addition to children or grandchildren of the on-site caregiver:						
– Day care of a maximum of 3 persons. This use does not need a zoning permit.	P	P	P	P	P	P
– Group Day Care Home (7 to 12 children)	SE	P	P	P	P	N
– Family Day Care Home (4 to 6 children)	P	P	P	P	P	N
Furnace, Outdoor (See 1306.03)	P	P	P	P	P	P
Geothermal Well, with a 20 feet minimum setback from lot lines and street rights-of-way	P	P	P	P	P	P
Home Occupation, General or Low Impact (See 1306.03)	P	P	P	P	P	P

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	OI***	CG	CBD	CN	LIC	GIC
Outdoor Storage and/or Display as accessory to a business use (See buffer yard provisions) (See 1306.03)	P**	P	P**	P	P	P
Outdoor Storage and/or Display as principal use, other than uses listed separately in this table (See buffer yard provisions in 1313.03)	N	N	N	N	SE	P
Retail Sales as Accessory to a Principal Industrial Use, limited to items produced or distributed on the premises, and limited to a maximum of 5% of the floor area of the principal use	N	P	P	P	P	P
Short-Term Rental of a Dwelling (See 1306.03)	P	P	P	P	P	P
Temporary Commercial Uses - See Section 1306.03, as well as "Food Truck" which is listed separately.						
Unit for Care of Relative (See 1306.03) on the lot of an existing dwelling	P	P	P	P	N	N
g. MISCELLANEOUS USES						
Crop Farming, Community Garden, Greenhouse, or Hydroponics	P	P	P	P	P	P
Forestry (See 1306.02)	P	P	P	P	P	P
Livestock or Poultry, Raising of (See 1306.02)	N	N	N	N	P	P
Nature Preserve/Environmental Education Center	P	P	P	P	P	P
Parking Lot or Structure as an accessory or principal use:						
- parking of trucks that haul putrescent or hazardous waste	N	N	N	N	N	SE
- overnight parking that primarily serves two or more tractor-trailer trucks and/or their trailers	N	P	N	N	P	P
- other than above, such as municipal parking lots and customary accessory parking for on-site uses.	P	P	P	P	P	P
Recycling Collection Center	N	P	N	N	P	P
Solar Energy Collection Systems						
- Which cover areas equal to a maximum of 20 percent of the lot area, plus areas on top of building roofs and parking areas	P	P	P	P	P	P
- Which cover larger areas than above, and which include evergreen vegetation with an initial height of 3 feet between ground-mounted solar collectors and any abutting dwelling	N	N	N	N	N	P
Wastewater Treatment Plant (other than customarily accessory pre-treatment facilities)	N	N	N	N	N	P
Wind turbines:						
- Maximum of one on a lot that is an accessory use (See 1306.03)	SE	SE	SE	SE	SE	SE
- One or more wind turbines, other than above (See 1306.02))	N	SE	SE	SE	SE	SE
All Uses that will be unable to comply with the performance standards of this ordinance. See the "Environmental Protection" requirements of Article 1310	N	N	N	N	N	N

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(See 1306.02 or 1306.03) = See Additional Requirements in Sections 1306.02 or 1306.03

*** = See limits on hours of operation in Section 1304.05.

1304.02 **Permitted Accessory Uses in All Districts.** Section 1303.02 shall apply.

1304.03 **Permitted Accessory Uses to Business and Institutional Uses.** The following are permitted by right accessory uses only to a permitted by right or special exception commercial, industrial or institutional use, provided that all requirements of this Ordinance are met:

- (a) Storage of fuels for on-site use or to fuel company vehicles.
- (b) The following accessory uses, provided that the use is clearly limited to employees, patients, residents and families of employees of the use and their occasional invited guests:
 - (1) Internal cafeteria without drive-through service,
 - (2) Day care center or
 - (3) Recreational facilities.
- (c) Automatic Transaction Machine

1304.04 **Uses Not Specifically Regulated.** Section 1302.05 shall apply.

1304.05 **Limits on Hours of Operation in the OI District and for Nonconforming Commercial Uses in Residential Districts.**

- (a) A commercial use or membership club in the OI District shall not be open to customers or patrons for business purposes between the hours of 11 PM and 6 AM unless it was already regularly open to the public during those hours immediately prior to the effective date of this Ordinance. A commercial use or membership club may be approved to be open after 11 PM as a special exception use if the applicant proves to the satisfaction of the Zoning Hearing Board that such business hours will not negatively impact dwellings in the vicinity.
- (b) A nonconforming commercial use or membership club in a Residential District shall not be open to customers or patrons for business purposes between the hours of 11 PM and 6 AM, unless the use was already regularly open to the public during those hours immediately prior to the effective date of this Ordinance.
- (c) These time restrictions shall not apply to health care uses.

1304.06 **Age-Qualified Housing.**

- (a) These provisions shall apply if Age-Qualified Housing is used to allow an increased density under this Ordinance under Article 1305 of this Ordinance.
- (b) Age-Qualified Housing shall involve all housing units within a subdivision or land development being permanently limited by deed and by any lease to occupancy by at least one person age 55 and older, and with no resident under age 18, except that a person under age 18 may temporarily stay within a housing unit for a total of less than 60 days per calendar year. An applicant alternatively may decide to use an age limit of 62 or above, or a similar age limit authorized by Federal law.
- (c) The applicant may also decide to permit one or more types of persons classified by the Social Security Administration as disabled to reside in Age-Qualified Housing, regardless of their age, provided it is structured in a way that complies with Federal law.
- (d) A primary enforcement mechanism shall be established by the applicant, such as through the owner of a rental development or by a homeowner association. The City shall be provided with secondary enforcement authority that is intended to be used if such primary mechanism fails to comply with its enforcement responsibilities. If the City needs to utilize its enforcement authority, the City's enforcement costs shall be paid by the entity with the primary enforcement responsibility.

- (e) If a household met the age qualifications at the time of initial occupancy of a dwelling unit, members of a household are not required to leave if a person aged 55 or older later dies or leaves the household, such as because of divorce, separation or need for nursing care.