Review of Chapter 185 Article IV District Regulations

Guiding Principles

* Restructure to facilitate simplification (e.g., nest discussions of NR, RR, and PR rather than listing sequentially over multiple sections)
* Simplify entries in Tables 1 & 3; divide tables to include a single type of use (e.g., permitted uses); duplicate definitions from Chapt 1; and enter clarifications/minor restrictions in text below each section of table
* Move more complex discussions of criteria and processes for accessory uses, conditional uses, and uses by special exceptions to Article VII and be sure to clearly reference
* Move portions of text to/from other chapters/sections to be sure that all related discussions are co-located; to improve use and understanding and to, hopefully, minimize of conflicts
* Liberal use of comments to highlight potential vagueness or ambiguity, and to suggest issues that need to be addressed to improve utility

This document was constructed by first copying text from the existing code and then enabling track changes to show changes made to that text. Unfortunately, when moving text within this document I didn’t track as a move, but you will see the deleted text tracked as a deletion and the relocated text in black (showing up as unedited text).

In some places I have added qualifying or clarifying language, consistent with my interpretation of the intent of the code. Clearly these are open to discussion or revision by the committee, the Planning Commission, or the Town Commissioners.

Path forward. I see a couple of decisions that need to be made:

* Is this a better organization?
* Is there support to reorganize the code to put all discussions of specific issues in one place?
* Resolution of the issues raised in the comments and consensus around the added text
* Amending all other areas of the code affected by this reorganization

Article IV District Regulations

§ 185-23 Residential Districts

A. Purpose of the District.

1) NR Neighborhood Residential District. The purpose of zoning in this district is to provide for the lowest level of residential development within the Town in an area characterized largely by single family homes situated on individual 5,000 square foot lots, together with such accessory uses, conditional uses, and uses permitted by special exception as may be compatible with such residential surroundings.

2) RR Resort Residential District. The purpose of zoning in this district is to provide for residential development of greater variety and density than that provided for in an NR District, in an area characterized by buildings housing single- and multi-family dwelling units on individual lots as well larger condominium and townhouse developments, together with such accessory uses, conditional uses, and uses permitted by special exception as may be compatible with such residential surroundings.

3) PR Planned residential District. Purpose. The purpose of zoning in this district is to allow overall residential development for a large block of land rather than requiring separate residential structures on individual lots as a means of creating a superior living environment without, however, increasing the dwelling-unit density which would be permitted in the larger NR or RR District in which such a PR overlay is located, provided such a unified development is determined to protect the public welfare, safety and benefit. Accessory uses, conditional uses, and uses permitted by special exception are allowed as may be compatible with such residential surroundings. General considerations, review standards, and the processes for application and approval of a PR planned residential development are presented in Section 185-25 Planned Developments.

B. Permitted Uses, Permitted Accessory Uses, Conditional Uses, and Uses Permitted by Special Exception.

1) Penalties. The violation of the requirements herein listed for any permitted use, accessory use, conditional use, or use by special exception shall be prosecuted as a civil offense. See Chapter 80, Civil Offenses, for applicable fines and appeal process.

2) Permitted Uses. Permitted uses in NR, RR and PR zoning districts are listed in Table 1 Permitted Uses in Residential Districts.

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| Table 1 Permitted Uses in Residential Districts | | | |
| **Permitted uses.** | NR  Neighborhood Residential | RR  Resort Residential | PR  Planned Residential |
| Single-family detached dwelling | x | x | x |
| Multifamily dwelling |  | x | x |
| Public park | x | x | x |
| House of worship |  | x |  |
| Electricity transmission lines and their  supporting elements | x | x |  |
| Dewey Beach municipal buildings  and uses |  | x |  |

a) Single-family detached dwelling. As defined in Section 1-16 Definitions, “[a] fully detached building with one kitchen designed for or occupied exclusively by one family or one group of persons living together as a household or by a person living alone. Single-family detached dwellings may also be referred to as a single-family home, building or residence or a detached single-family home, building or residence.” The term detached single family detached dwelling does not include mobile home. Neither the storage of nor the use of a mobile home as a dwelling unit shall be permitted in any residential district.

b) Mulitfamily dwelling. As defined in Section 1-16 Definitions, “[a] building containing two or more dwelling units.” While there is no restriction on the type of ownership or organization of units within a building housing multiple dwelling units, there are limits on street frontage and the number of dwelling units permitted within any such multifamily building, which are listed under Maximum Building Frontage in Table 2 Bulk Zoning Standards in All Districts.

c) Above-ground electricity transmission lines. New electricity transmission lines in any PR district are expected to be buried and therefore electricity transmission lines and their supporting elements shall not be permitted uses in any PR district.

3) Permitted Accessory Uses. Permitted accessory uses in NR, RR and PR zoning districts are listed in Table 3 Permitted Accessory Uses in Residential Districts.

Accessory uses are uses, located on the same lot as and clearly incidental to, or customarily found in connection with the above listed permitted uses.

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| Table 3 Permitted Accessory Uses in Residential Districts | | | |
| **Permitted accessory use**s. | NR  Neighborhood Residential | RR  Resort Residential | PR  Planned Residential |
| Home occupation | x | x | x |
| Playhouse | x | x | x |
| Swimming pool | x | x | x |
| Domestic storage | x | x | x |
| Garage, private | x | x | x |
| Parking of motor vehicle | x | x | x |
| Storage of a boat and/or boat trailer, recreational vehicle, travel trailer or motor home (but not mobile home). | x | x | x |
| Keeping of domestic animals as pets | x | x | x |
| Home barbecue grill | x | x | x |

a) Home occupation. As defined in 1-16 Definitions, “[a]ny service, profession or trade which is conducted within a residential dwelling and conducted in a manner which does not change the essential character of the residential use and makes the dwelling with said home occupation indistinguishable from dwellings with no business use.” All home occupations shall be registered with the Town of Dewey Beach and hold a valid Town business license. Additional clarifications and restrictions, along with a description of the registration/licensing process, are provided in Article VII Conditional Uses, Uses Permitted by Special Exception, and Special Events. [[Possibly rename Accessory Uses, Conditional Uses ….]]

b) Playhouse. As defined in Section 1-16 Definitions, “[a] small building designed expressly for children to play in with a gross floor area not to exceed 200 square feet.” A playhouse is an accessory building without plumbing and shall not be used for living purposes. See Article VIII Supplementary Height, Area and Bulk Section 185-51,Accessory buildings and structures, for restrictions on size and placement.

c) Swimming pool. As defined in 1-16 Definitions, “[a]ny structure that is intended for swimming or recreational bathing and contains water over 24 inches deep, including, but not limited to, in-ground, aboveground, and on-ground swimming pools and hot tubs, but not including children's wading pools, ornamental reflecting pools or fish ponds or other types of pools located and designed so as not to create a hazard or be used for swimming or wading. Swimming pool requirements shall also apply to any related equipment, structures, areas and enclosures that are intended for the use of persons using or operating the swimming pool.” Swimming pools shall meet all State regulations under DEL \_\_\_\_\_\_. Additional Town zoning and safety regulations regulating placement and operation of swimming pools are included in Article VIII Supplementary Height, Area and Bulk in Section 185-51 B. under Accessory buildings and structures.

d) Domestic storage. Storage of normal household items is permitted in main and accessory buildings, but not in any open area nor in any temporary structure.

e) Private garage. Defined in Section 1-16 Definitions, as “[a]n enclosed or partially enclosed space intended to be used primarily to provide temporary storage or shelter for passenger automobiles, motorcycles and mopeds, and boats and trailers and the like. In residential zoning districts, the space therein may be used for parking or storage of not more than one commercial vehicle of not more than one ton capacity.” For a private garage to qualify as a permitted accessory use in a residential district it shall have a floor area of 900 square feet or less. Any private garage of more than 900 square feet shall only be permitted in a residential zoning district by special exception (See Article VII Conditional Uses, Uses Permitted by Special Exception, and Special Events).

f. Parking of motor vehicles. The locations and types of motor vehicles permitted herein are regulated by Section 185-54, Parking and storage of certain vehicles.

g) Storage of a boat and/or boat trailer, recreational vehicle, travel trailer or motor home (but not mobile home). No boat or boat trailer, recreational vehicle, travel trailer or motor home shall be used for living purposes while so stored. Zoning regulations regarding placement of such items relative to property lines are given in Article VIII Supplementary Height, Area and Bulk Section 185-51 C. under Accessory buildings and structures. Storage of a mobile home is prohibited.

h) Keeping of domestic animals as pets. Domestic animals may be kept as pets for personal enjoyment or household use but not as a business, and providing such pets are properly licensed, housed and cared for so as not to be a public or private nuisance or to endanger the welfare of the pet so kept.

i) Home barbecue grill. When used in compliance with Fire Marshal regulations (See DEL ) electric and piped-in gas grills are permitted, bottled-gas/propane and charcoal grills are prohibited on upper-level decks.

4) Conditional Uses. Conditional uses in NR, RR and PR zoning districts are listed in Table 4 Conditional Uses in Residential Districts.

Conditional use applications are reviewed by the Planning Commission and approved by the Town Commissioners. For some conditional uses a set of minimum conditions shall apply to all such conditional uses. A list of such minimum conditions and a description of the processes for application, approval, and appeal are provided in Article VII Conditional Uses, Uses Permitted by Special Exception, and Special Events. Additional conditions may be imposed, dependent on size and location of the property, as part of the conditional use approval process, to protect the health, safety and welfare of the community.

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| Table 4 Conditional Uses in Residential Districts | | | |
| **Conditional uses.** | NR  Neighborhood Residential | RR  Resort Residential | PR  Planned Residential |
| Bed-and-breakfast | x | x | x |
| Access from and use of a residential district property adjacent to a Resort Business District property owned by the same person, corporation or entity. |  | x |  |
| Institutions, educational or philanthropic, including museums, art galleries and libraries |  | x | x |
| Marinas or yacht clubs and swimming or tennis clubs |  | x | x |
| Public utilities or public services uses, public or governmental buildings and uses, including schools, playgrounds, and public boat landings |  | x | x |

a) Bed-and-Breakfast. Defined in Section 1-16 as “[a]n owner-occupied private home in which up to four bedrooms are used to provide overnight accommodations and a breakfast meal for transient guests for compensation.” A bed-and-breakfast may be either an incidental use or the principal use of a detached single-family dwelling or a dwelling unit within a multiunit residential building but shall not comprise several such dwelling units. The bed-and-breakfast must be owner-occupied during the period of operation, unless a non-owner manager is approved as a part of the approval of the conditional use application. See Article VII Conditional Uses, Uses Permitted by Special Exception, and Special Events.

b) Access from and use of a residential district property adjacent to a Resort Business District property owned by the same person, corporation or entity. A portion of a residential district property such as a driveway may be used to provide vehicle and personal access to an adjacent Resort Business district property. In addition a portion of the residential district property may be used for the parking of vehicles associated with the Resort Business property, however there shall be no parking in the designated access area(s). The access and parking area(s) may be used for unloading of materials to the adjacent property but shall not be used for storage of any such materials. See Article VII Conditional Uses, Uses Permitted by Special Exception, and Special Events.

5) Uses Permitted by Special Exception. Uses permitted by special exception in NR, RR and PR zoning districts are listed in Table 5 Uses Permitted by Special Exception in Residential Districts.

Special exception use applications are reviewed and approved by the Board of Adjustment in accordance with the provisions of Article X, Board of Adjustment. For some special exception uses a set of minimum restrictions shall apply. A list of such minimum conditions and a description of the processes for application, approval, and appeal are provided in Article VII Conditional Uses, Uses Permitted by Special Exceptions, and Special Events. Additional restrictions may be imposed during the review/approval process to protect the health, safety and welfare of the community.

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| Table 5 Uses Permitted by Special Exception in Residential Districts. | | | |
| **Uses permitted by special exception.** | NR  Neighborhood Residential | RR  Resort Residential | PR  Planned Residential |
| Private garage of more than 900 square feet | x | x | x |
| Temporary use of a building as a sales or rental office for a period of time greater than 7 days |  | x | x |
| Temporary parking for trailers for special events and/or construction activities | x | x | x |

a) Private garage of more than 900 square feet floor area. As described above in Section 1-23 3) e), a private garage of 900 square feet or greater may only be permitted in a residential zoning district by special exception (See Article VII Conditional Uses, Uses Permitted by Special Exception, and Special Events).

b) Temporary use of a building as a sales or rental office for a period of time greater than seven (7) days. A special exception may be made for such a sales or rental office associated with an approved real estate development or subdivision project. Any such temporary use shall not be approved for a period exceeding \_\_\_\_\_\_\_days.

c) Temporary parking for trailers for special events and/or construction activities shall not be permitted along the Coastal Highway right-of-way at any time, nor on the right of way of any other street from Memorial Day to Labor Day.

G) Reference to additional regulations. The regulations contained in this section are supplemented by regulations contained in other articles of this chapter and other chapters of the Town's municipal code, especially the following:

(1) Article V, General Sign Regulations.

(2) Article VI, Off-Street Parking.

(3) Article VII, Conditional Uses, Uses Permitted by Special Exceptions, and Special Events.

(4) Article VIII, Supplementary Height, Area and Bulk Regulations and Table 2 Bulk Zoning Standards in All Districts.

(5) Article IX Nonconformities

(6) Article X, Board of Adjustment.

(7) Definitions contained in Section 1-16 Definitions.

(8) Restrictions specific to development in flood-prone areas (including FEMA-designated VE, AE and AO flood zones) contained in Chapter 101, Article IV Utilization of the Coastal Floodplain Area.

§ 185-24 Resort Business Districts

§ 185-25 Planned Developments