

§ 185-25. RB-1 Resort Business District. [Amended 78 Del. Laws, c. 232, 5/1/2012; 7-27-2012 by Ord. No. 696; 10-13-2012 by Ord. No. 698; 1-9-2016 by Ord. No. 724; 5-22-2018 by Ord. No. 742; 7-25-2018 by Ord. No. 749; 6-30-2020 by Ord. No. 755; 6-25-2021 by Ord. No. 768; 2-17-2023 by Ord. No. 801; 9-20-2024 by Ord. No. 844]

A. Purpose of the district.

- (1) The purpose of this district is to provide sufficient space in appropriate locations for a wide variety of commercial and miscellaneous service activities. This district permits the most intense development of such activities. Its features include structures that are both entirely dedicated to commercial use or mixed-use structures with floor area square footage of not less than 1/3 commercial land use and not greater than 2/3 residential land use. Single-family detached dwellings and buildings or structures dedicated to residential uses are prohibited.

B. Permitted uses. See Table 3, Uses in Resort Business Districts.

C. Permitted accessory uses. See Table 3, Uses in Resort Business Districts.

Table 3 Uses in Resort Business Districts						
		RB-1 Resort Business	RB-2 Resort Business	RB-3 Resort Business	PRB-1 Planned Resort Business	PRB-3 Planned Resort Business
Permitted uses. A building or land shall be used only for the following purposes:						
	Retail food business, including grocery and specialty-food stores (e.g., bakery, fresh fruit and vegetables, fresh fish and meats, delicatessen and gourmet foods), and the like	✓	✓	✓	✓	✓
	Bank and/or ATM, drive-in or otherwise, so long as driveway space shall be provided off the street for all vehicles waiting for drive-in service	✓	✓	✓	✓	✓
	Service businesses, including, e.g., barber shop, beauty salon and day spa; house cleaning, landscaping and decorating; catering and florist service; shoe and clothing repair, consumer-electronics repair, computer equipment repair, small tool and appliance repair, and sporting equipment service and repair; printing, desktop publishing and engraving; handyman, electrician, painter, plumber, carpenter and general contractor; and similar types of service businesses	✓	✓	✓	✓	✓

Table 3 Uses in Resort Business Districts						
		RB-1 Resort Business	RB-2 Resort Business	RB-3 Resort Business	PRB-1 Planned Resort Business	PRB-3 Planned Resort Business
	Pet grooming and pet day care, but not kenneling, provided that such businesses submit an appropriate plan of operation addressing the subjects of vaccinations, licenses, pet waste, and noise management procedures. Pet grooming and pet day care businesses shall not operate between the hours of 9:00 p.m. and 7:00 a.m.		✓			
	Store or shop for the conduct of retail business, including the sale of clothing and accessories; antiques, carpets and fabrics; medications; books, cards and sundries; hardware, paint and general merchandise; furniture, beach, garden and hobby supplies; flower shop and associated greenhouse(s); jewelry, arts and crafts; household goods, sporting goods, computer equipment and accessories, consumer electronics and office/home office supplies; and similar types of retail establishments	✓	✓	✓	✓	✓
	Health or fitness club; recreation facility or athletic field, including tennis, swimming and boating, volleyball, bocce, and similar types of recreational activity; areas for fishing or boating and picnic grounds, and like uses; accessory facility for the sale of food, nonalcoholic beverages, bait, supplies and incidentals, and equipment appropriate to such recreational activity	✓	✓	✓	✓	✓
	Office for professional or general business activity	✓	✓	✓	✓	✓
	Studio for artist(s), photographer(s), sculptor(s), potter(s) or musician(s), whether open to the public for classes or exhibits, including sales, or not	✓	✓	✓	✓	✓

Table 3 Uses in Resort Business Districts						
		RB-1 Resort Business	RB-2 Resort Business	RB-3 Resort Business	PRB-1 Planned Resort Business	PRB-3 Planned Resort Business
	Amusement place or theater, except open-air drive-in theaters. Amusement places include a bowling alley, dance hall subject to applicable Town regulations, skating rink, swimming pool, miniature golf, billiard or pool parlor, indoor model racing track, and similar activity, but specifically exclude an adult book/video store, adult motion-picture theater, adult bath house, adult massage parlor, adult modeling studio, adult cabaret or strip club, and adult novelty shop.	✓	See Conditional Use	See Conditional Use	✓	See Conditional Use
	Marine activities, including mooring, boat and trailer sales, storage, repairs and service. Boat and/or trailer displays of more than 3 1/2 feet in height shall conform to all setback and yard requirements	✓	✓	✓	✓	✓
	Automobile parking lot and multistory garage	✓	See Conditional Use	See Conditional Use	✓	See Conditional Use
	Mixed commercial and residential use within a single structure, subject to the mixed-use provisions of Articles VI (Off-Street Parking) and VII (Conditional Uses) and providing that any mixed-use structures shall have exclusive commercial land use on the first floor and may have commercial and/or residential land use on upper levels	✓	✓	✓	✓	✓
	Private residential dwelling unit as a "residential" component in a mixed-use structure that is operated as a rooming home, tourist home, or bed-and-breakfast to provide accommodations for a maximum of two adults per rental room, not to exceed a total of 12 rental rooms; each rental room shall not have cooking facilities of any kind. The property owner or rental manager must be resident on the premises during periods of operation as a rental accommodation		✓	✓		✓
	Single-family detached dwelling, but not a mobile home			✓		✓

Table 3 Uses in Resort Business Districts						
		RB-1 Resort Business	RB-2 Resort Business	RB-3 Resort Business	PRB-1 Planned Resort Business	PRB-3 Planned Resort Business
	Multifamily dwelling unit in a building or structure dedicated to residential use, including townhouse and apartment-style configurations			✓		✓
	Convention center; community center; meeting hall for use by religious groups (e.g., church or synagogue), private or professional club or lodge, and similar types of organizations	✓		See Conditional Use	✓	See Conditional Use
	Public park	✓	✓	✓	✓	✓
	Tents, canopies and awnings covering 1) conditional use approved outside service areas or 2) existing nonconforming outdoor service areas shall be permitted subject to all Building Code, Fire Marshal and setback requirements and shall not constitute an addition, expansion or extension as referenced in § 185-25D(1)(c) or 185-60	✓	✓	✓	✓	✓
	Transmission line and required supporting elements	✓	✓	✓	✓	✓
Permitted accessory uses (a use clearly incidental to or customarily found in connection with, and located on the same lot as the principal use of the premises).						
	Domestic storage and storage of office supplies and other merchandise carried in connection with a permitted use	✓	✓	✓	✓	✓
	Home barbecue grill used in compliance with Fire Marshal regulations; electric and piped-in-gas grills permitted, bottled-gas/propane and charcoal grills are prohibited on upper-level decks	✓	✓	✓	✓	✓

Table 3 Uses in Resort Business Districts						
		RB-1 Resort Business	RB-2 Resort Business	RB-3 Resort Business	PRB-1 Planned Resort Business	PRB-3 Planned Resort Business
	Home occupations	✓	✓	✓	✓	✓
	Keeping of pets for personal use when properly licensed and vaccinated	✓	✓	✓	✓	✓
	Parking of permitted motor vehicles	✓	✓	✓	✓	✓
	Storage of a boat, including wave runner types of water vehicles, boat trailer, or recreational vehicle (but not mobile home), but not in a front yard or side yard adjacent to a street. Any such vehicle shall not be used for living purposes while so stored.	✓	✓	✓	✓	✓
	Swimming pool	✓	✓	✓	✓	✓
Conditional uses. The following uses may be permitted as conditional uses when approved in accordance with the provisions of Article VII of this chapter:						
	Hospitals, clinics or first-aid stations for treatment of humans	✓	✓	✓	✓	✓
	Veterinarian practice for care of domestic animals, provided any such business does not create health or safety hazards for neighbors or the Town and does not result in excessive sound or odors. Boarding may be provided for animals under immediate veterinarian supervision, but kenneling shall not be permitted.	✓	✓	✓	✓	✓
	Courtyard development/ cluster buildings with dedicated commercial or mixed use			✓		✓
	Educational or philanthropic institutions, including museums, art galleries and libraries	✓	✓	✓	✓	✓

Table 3 Uses in Resort Business Districts						
		RB-1 Resort Business	RB-2 Resort Business	RB-3 Resort Business	PRB-1 Planned Resort Business	PRB-3 Planned Resort Business
	Public or governmental building and use, including facility for Town Hall and police operations, park, playground and public boat landing; school, summer school or summer camp, including educational curricula, computer study, sporting, music, arts and crafts schools or camps	✓	✓	✓	✓	
	Public pier for fishing	✓		✓	✓	✓
	Day-care facility for care of children or the elderly, when appropriately licensed and in conformance with all state and county regulations	✓	✓	✓	✓	✓
	Package store (consistent with ABCC licensing and regulation)	✓	✓		✓	
	Bus stop	✓	✓	✓	✓	✓
	Convention center; community center; meeting hall for use by religious groups (e.g., church or synagogue), private or professional club or lodge, and similar types of organizations, providing the parcel is developed so as to provide for adequate parking for such activities	Permitted Use	✓	✓	Permitted Use	✓
	Automobile parking lot and multistory garage	Permitted Use	✓	✓	Permitted Use	✓
	Amusement place or theater, except open-air drive-in theaters. Amusement places include a bowling alley, dance hall subject to applicable Town regulations, skating rink, swimming pool, miniature golf, billiard or pool parlor, indoor model racing track, and similar activity, but specifically exclude an adult book/video store, adult motion-picture theater, adult bath house, adult massage parlor, adult modeling studio, adult cabaret or strip club, and adult novelty shop.	Permitted Use	✓	✓	Permitted Use	✓

Table 3 Uses in Resort Business Districts						
		RB-1 Resort Business	RB-2 Resort Business	RB-3 Resort Business	PRB-1 Planned Resort Business	PRB-3 Planned Resort Business
	Garage, private		✓	✓		✓
	Filling station		✓			
	Tents of all types designated to be in operation for a period of time of seven days or less	✓	✓	✓	✓	✓
	Restaurants and other uses as per requirements in § 185-25D(1) conditional use requirements for restaurants and other uses	✓	✓	✓	✓	✓
	Signs larger than 85 square feet on a single surface	✓	✓	✓	✓	✓
Uses permitted by special exception. Special use exceptions may be permitted by the Board of Adjustment, and in accordance with the provisions of Article X, Board of Adjustment.						
	Exceptions to parking requirements as per the requirements in § 185-67B(2), exceptions to parking requirements	✓	✓	✓	✓	✓
	Temporary structures for the sale of food or merchandise for a period greater than seven days	✓	✓	✓	✓	✓
	Awnings covering all or part of an established paved public sidewalk, provided that the awnings pose no obstacle to required or desired visibility and do not impede pedestrian traffic. Approved awnings shall not be lower than 8 feet nor higher than 15 feet from the sidewalk surface and must be cantilevered from the building with no support extending to the ground.	✓	✓	✓	✓	✓
	Kiosks	✓	✓	✓	✓	✓
	Private garage for more than four automobiles and floor area of more than 900 square feet		✓	✓		✓

Table 3 Uses in Resort Business Districts						
		RB-1 Resort Business	RB-2 Resort Business	RB-3 Resort Business	PRB-1 Planned Resort Business	PRB-3 Planned Resort Business
	Temporary use of a building as a sales or rental office for an approved real estate development or subdivision to be used for a period of time greater than seven days	✓	✓	✓	✓	✓
	Temporary outdoor display or promotional activities designated to be in operation for a period of time greater than seven days	✓	✓	✓	✓	✓
	Temporary parking for trailers for special events and/or construction activities, but not along the Coastal Highway right-of-way	✓	✓	✓		✓
	Tents other than those covering a conditional use approved or existing licensed patron area as a permitted use; provided that if the tent is to be used over a parking lot, such a tent shall not encompass more than 2,000 square feet, such a tent shall not be used before 8:00 a.m. and after 8:00 p.m. between May 15 and September 15 (Subject to the above described limitations, permits may be approved by the Town Commissioners following a public hearing for special events requiring tents for a period of three days or less.)	✓	✓	✓	✓	✓
	Temporary expansion of patron area into the parking lot for special events. Permits for temporary expansion of patron areas may be granted by the Commissioners of the Town of Dewey Beach following a public hearing pursuant to the following limitations and conditions:	✓	✓	✓	✓	✓
	A. No patron area shall be expanded to encompass more than 2,000 square feet.					
	B. No temporary expansion permit shall be granted for a time period exceeding 72 hours in duration.					

Table 3 Uses in Resort Business Districts								
				RB-1 Resort Business	RB-2 Resort Business	RB-3 Resort Business	PRB-1 Planned Resort Business	PRB-3 Planned Resort Business
		C.	Temporary expansions of patron areas for special events held between May 15 and September 15 shall be limited to one per business establishment per calendar year and restricted to the hours of 9:00 a.m. to 8:00 p.m.					
		D.	Temporary expansions of patron areas for special events held between September 16 and the subsequent May 14 shall be limited to two per business establishment per calendar year. An additional two events per establishment may be applied for, provided the events are family-friendly (open to all ages), and supportive of a charitable organization or fundraising for Town improvements.					
		E.	Applications for temporary expansions of patron areas shall be submitted not less than 45 days in advance of the proposed special event.					
		F.	The application shall include a flat fee of \$500 per day of the proposed special event.					
		G.	Not less than 48 hours prior to start of an approved event, the applicant shall display on the event premises permits from the Town of Dewey Beach; the Fire Marshal if required, and the ABCC license extension certificate, if required.					
		H.	Additional conditions of approval may include the following:					
		(1)	Additional security measures to protect the health, safety and welfare of the event participants and the community as a whole.					

Table 3 Uses in Resort Business Districts									
					RB-1 Resort Business	RB-2 Resort Business	RB-3 Resort Business	PRB-1 Planned Resort Business	PRB-3 Planned Resort Business
			(2)	Restrictions on the hours of operation of a special event.					
			(3)	The provision and screening of adequate facilities, such as portable toilets and waste receptacles.					
			(4)	In the event the applicant proposes to erect a tent, limitations on the time period in which the tent may be erected prior to the event and removed following the event.					
			(5)	Any other condition that promotes and protects the health, safety and welfare of the community at large.					
Special events permitted for a limited period of time. Special-event permits shall be approved by the Town Commissioners following a public hearing.									
	Sale of permitted types of goods, products and services from a vehicle, push cart, tent or open-air facility when authorized by majority vote of the Town Commissioners as part of a "fair" or "show" of duration not to exceed seven consecutive days, and with such terms and conditions as the Town Commissioners may impose				✓	✓	✓	✓	✓
	Temporary outdoor display or promotional activities designated to be in operation for a period of seven days or less				✓	✓	✓	✓	✓
	Temporary use of a building as a sales or rental office for an approved real estate development or subdivision limited in time to seven days or less				✓	✓	✓	✓	✓
	Temporary structures for the sale of food or merchandise for a period of seven days or less				✓	✓	✓	✓	✓

Table 3 Uses in Resort Business Districts						
		RB-1 Resort Business	RB-2 Resort Business	RB-3 Resort Business	PRB-1 Planned Resort Business	PRB-3 Planned Resort Business
	Nonprofit charitable gaming limited to off-season (October 15 to May 15) for a period of six hours with approval of Town Commissioners, except that the event must be conducted by a nonprofit organization. No establishment shall conduct charitable gaming more than one time per calendar quarter.	✓	✓	✓	✓	✓

D. Conditional uses. See Table 3, Uses in Resort Business Districts. The following additional conditions shall apply:

(1) Restaurants and other uses.

- (a) Any new facility or expansion of an existing facility which is enclosed, outdoor or open air, and is defined by any one of the following general categories:

[1] Restaurant, with or without an ABCC license, provided that:

- [a] Seated dining for 35 or more patrons must be provided.
- [b] A minimum of 80% of the patron area, exclusive of kitchens, storage areas, offices, outside service areas, and rest rooms, must be permanently committed to seated dining, and said seating areas may not be altered, moved or removed.
- [c] A maximum of 20% of the patron area, exclusive of kitchens, storage areas, offices, outside service areas, and rest rooms, may be designated as bar area, where seated and stand-up consumption of alcoholic beverages by patrons is permitted.
- [d] In the area designated for seated food service, alcoholic beverages shall only be served to dining patrons.
- [e] No stand-up consumption of alcoholic beverages in the area designated for seated food service is permitted.
- [f] All tables and chairs shall be maintained in the configuration shown in the approved conditional use application.
- [g] If the bar area is separated from the dining area by walls or partitions, the number of patrons in the bar area cannot exceed the Fire Marshal's occupancy limit for that area.
- [h] Kitchen facilities shall be under the direction of a chef or cook.

- [i] Restaurants conforming to this subsection shall be permitted to apply for a conditional use permit for an outside service area.
 - [j] Restaurants not conforming to this subsection are prohibited from expanding or adding an outside service area.
- [2] Entertainment or amusement facility, with or without an ABCC license.
- [3] Any commercial, outdoor, open-air operation, or outside service area, provided that:
 - [a] There shall be no stand-up consumption of alcoholic beverages.
 - [b] There shall be no external speakers or amplifiers.
 - [c] Any interior speakers on the premises shall not be directed toward such outside service area(s).
 - [d] The area shall be cleared of patrons by 11:00 p.m.
- [4] Eateries or cabarets, provided that:
 - [a] Alcoholic beverages shall not be served, nor shall foods containing or infused with alcohol be served.
 - [b] If indoor seating is provided, it shall be limited to a maximum of 35 patrons.
 - [c] If indoor patron area or outdoor seating on premises is provided, a minimum of one handicapped unisex restroom shall be provided. Said restroom shall have unimpeded access directly from the patron area of the eatery and not through the food preparation area or storage area.
 - [d] If outdoor or unenclosed tables or chairs are provided by the eatery, the hours of operation of the outdoor or unenclosed area shall not extend beyond 11:00 p.m.
 - [e] Outside loudspeakers for the amplification of sound shall not be permitted.
 - [f] Portable toilets shall not be permitted.
 - [g] Hours of operation shall not be earlier than 6:00 a.m. and not after 1:00 a.m. of the following day.
 - [h] Additionally, operation of an eatery or cabaret shall meet any and all other conditions established by the Town Commissioners at the time of any initial or subsequent approval.
- (b) Expansion of an existing nonconforming bar, tavern or nightclub, whether involved in the sale of food or not, not to exceed 50% of the existing facility, provided that only one such expansion shall be permitted for such facility during

the lifetime of the establishment operating as a conditional use, and further provided that the provisions of § 185-60A of this Code shall not be applicable to an application for expansion of a nonconforming use pursuant to this subsection.

- (c) All restaurants, bars and eateries in existence as of the date of the adoption of Ordinance No. 228 (April 11, 1992) may continue to operate the facility as before the adoption of said ordinance as a nonconforming ("grandfathered") facility. The status of the nonconforming, grandfathered facility shall terminate and the facility shall be required to operate in conformity with this Code, § 185-25D, § 185-35A, and § 185-35B, if there is a(n):
 - [1] Expansion of or addition to the existing building or existing outside service area except as required by applicable codes or insurance requirements.
 - [2] Reduction of the percentage of patron area committed to seated dining.
 - [3] Reduction of service areas by internal rearrangement for the purpose of creating an increase in the bar areas of more than 100 square feet of floor space as of the date of the adoption of Ordinance No. 234 (July 10, 1992).
- (2) Filling station - a retail establishment that provides retail sales of gasoline and diesel fuels and possibly provides routine motor vehicle services and operation of a convenience store, provided that:
 - (a) Product sales and services are limited to the retail sale of petroleum-based and other vehicle-related consumable products and the routine servicing of motor vehicles, such as the retail sales and/or installation of automotive accessories, automobile washing by hand, undercoating and rustproofing services, waxing and polishing of automobiles, tire changing and repairing (excluding recapping), battery service, changing and replacement (excluding repair and rebuilding), radiator cleaning and flushing (excluding steam cleaning and repair), and state inspection.
 - (b) The following operations shall only be performed if conducted within a completely enclosed building: brake servicing, limited to servicing and replacement of brake cylinders, lines and brake shoes; wheel balancing, and the testing, adjustment and replacement or servicing of carburetors, filters, generators, points, rotors, spark plugs, voltage regulators, water and fuel pumps, water hoses and wiring.
 - (c) Any convenience food store operation on the lot or parcel shall also provide for the retail sale of petroleum-based and vehicle-related products as part of its normal operations.
 - (d) In no case shall the following be permissible as part of any filling station or automobile service station operation: automobile wrecking; automobile or auto parts recycling; auto body repairs; automobile painting; the parking or storing of inoperable, wrecked or unregistered vehicles; the parking or storing of motor vehicles for hire, such as taxis, limousines, or tour vans or buses; parking of motor vehicles for a fee; or the operation, parking or storing of more than one towing vehicle.

- (3) No new hotels/motels. Defined as any business providing lodging for transient patrons and regulated under Delaware State Code _____, no new hotels or motels shall be permitted in the Town of Dewey Beach per Ordinance No. 430 enacted 4/8/2000. Existing hotels/motels shall conform to the following:
- (a) Is operated exclusively as a place of temporary lodging on a daily basis.
 - (b) Is open to the public in its entirety rather than to a limited group, except that one room or suite may be reserved for the use of the resident manager.
 - (c) Contains a public lobby and guest registration area in which all reservations are recorded.
 - (d) Provides full-time on-site management during the summer season, daily linen service, and daily housekeeping of all guest rooms and suites. The on-site management shall be responsible for the conduct of all guests, shall coordinate all rentals from realtors or travel agents, shall establish via room registration or rental agreement the maximum occupancy per room, and shall see that all guests are aware that exceeding the allowable occupancy shall be subject to immediate eviction and loss of rental.
 - (e) Limits the number of guest rooms and/or suites to the number approved by the building permit.
 - (f) Has available for assignment at least one parking space per guest room plus two for the office.
 - (g) Is subject to the Delaware Division of Revenue hotel or motel room tax.
 - (h) Does not provide self-contained suites or groups of rooms with separate cooking and sleeping areas, except that it may offer self-contained efficiency units (see definitions in § 1-16).
 - (i) Shall be subject to the supplementary height, area and bulk regulations in Chapter 185, Article VIII.
- E. Uses permitted by special exception. See Table 3, Uses in Resort Business Districts.
- F. Special events permitted for a limited period of time. See Table 3, Uses in Resort Business Districts.
- G. Permitted signs. All signs permitted by § 185-29 and signs permitted within the RB Districts by § 185-32.
- H. Height, area and bulk requirements. See Table 2, Bulk Zoning Standards in All Districts.
- I. Reference to additional regulations. The regulations contained in this section are supplemented or modified 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.
- (4) Article VIII, Supplementary Height, Area and Bulk Regulations.
- (5) Article X, Board of Adjustment.
- (6) Definitions contained in Chapter 1, Article III.