

Code of Maryland Title 08
Department of Natural Resources

Subtitle 08 DEEP CREEK LAKE

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Chapter 01 General Provisions

.01 Premises and Purpose.

A. The primary purposes for the promulgation of regulations for Deep Creek Lake are the protection of the lake as a natural resource, the preservation of its ecological balance, and furtherance of its highest use as a recreational resource, recognizing that abuse of the lake by its

overuse could jeopardize its well-being. A further purpose underlying the codification of these regulations is a realization that there is a relationship between the quality of the recreational experience on Deep Creek Lake and the level of recreational use. It is recognized that at some point recreational use of the lake could be said to have reached a saturation level, and intensification of lake usage beyond that point would begin an increasing deterioration of the quality of the recreational experience and perhaps of the overall health and well-being of the lake as a natural resource. Therefore, it is recognized that the highest and best plan for Deep Creek Lake as a recreational resource shall take into consideration a balance between the greatest possible level of recreational use of the lake and the quality of the recreational experience. This balance can only be achieved by providing some type of control of the level of usage as the saturation point is approached. An important and fundamental consideration in the drafting of these and future regulations, therefore, has been and will be to work toward a reasonable balance preserving an acceptable quality of recreational experience on Deep Creek Lake, while at the same time providing for the greatest use of the lake consistent with a quality experience and safety of all users of the lake.

B. The State of Maryland owns Deep Creek Lake in Garrett County, Maryland including the land under the lake and the buffer strip. The Department has allowed and will allow the public and surrounding landowners to use, and in certain instances to occupy, the waters of the lake, the land beneath the lake, and the buffer strip, but only as a matter of privilege. Permanent or long-term property interests in these properties are not intended to be granted to the public or to surrounding landowners in connection with recreational use of the lake and buffer strip under this subtitle.

C. The Department has authority and responsibility under State law to regulate many public, recreational uses of natural resources in and around the lake, such as boating and fishing. Other regulations in this title also apply to activities on the lake and buffer strip. This subtitle defines how the Department will carry out this additional right and responsibility.

.02 Definitions.

A. In this subtitle, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Adjacent Landowner" means a person, other than a commercial landowner, who:

- (a) Owns property immediately adjacent to the buffer strip;
- (b) Owns property immediately adjacent to a public right-of-way that is adjacent to the buffer strip;
- (c) Has deeded access to the buffer strip; or
- (d) Is eligible to apply for a buffer strip use permit pursuant to COMAR 08.08.05.02B(1)(b).

(2) "Buffer strip" means an area above the 2,462 feet lake elevation and not presently fenced or posted by the Department to limit or exclude use by the public.

(3) "Buffer strip use permit" means a permit issued by the lake manager to an adjacent landowner permitting certain uses of the buffer strip as set forth in COMAR 08.08.03.02 and 08.08.05.02.

(4) "Commercial landowner":

(a) Means a person who owns or leases property immediately adjacent to the buffer strip or property immediately adjacent to a public right-of-way that is adjacent to the buffer strip and who legally pursues a trade, business, or other nonpersonal enterprise on that property;

(b) Does not include those persons eligible for a development permit.

(5) "Committee" means the Deep Creek Lake Advisory and Review Committee.

(6) "Common dock facility" means a boating or swimming facility owned or used in common.

(7) "Deeded access" means a right, conveyed in connection with a subdivided lot not fronting on the buffer strip, that authorizes persons from the lot to cross property fronting on the buffer strip in order to reach the buffer strip. For deeded access created after May 5, 1986, this right will be recognized only if it is conveyed by a person who intends to develop land by subdividing lots out of a parcel or adjacent parcels of land that includes frontage on the buffer strip. A person with deeded access, for purposes of these regulations, is one who acquires the right to apply for a buffer strip use permit by the means described above.

(8) "Department" means the Department of Natural Resources.

(9) "Development permit" means a permit issued by the lake manager pursuant to COMAR 08.08.05.06.

(10) "General public" means those persons who do not hold a valid buffer strip use permit or who are not the tenants or guests of a person who holds a valid buffer strip use permit.

(11) "Houseboat" means a boat constructed for use as a residence or used principally as a residence.

(12) "Lake" means the area of pooled water within the watershed of Deep Creek in Garrett County, Maryland, formed by the hydroelectric dam and the lake bottom.

(13) "Lake manager" means the official of the Department who is designated to manage the lake on behalf of the Department in accordance with this subtitle.

(14) "Land records" means the duly recorded documents filed, recorded, and indexed in the custody of the Clerk of the Circuit Court for Garrett County.

(15) "Multiple family dwelling" means a residential building containing more than one separate living unit.

(16) "Nonconforming use" means an activity on, or a use of, the buffer strip or Deep Creek Lake, or both, which does not conform to the regulations of this subtitle, but which existed lawfully and under authorization of the Department before May 5, 1986.

(17) "Nonconforming use permit" means a permit issued by the lake manager for any activity on, or use of, the buffer strip or Deep Creek Lake which does not conform to the regulations of this subtitle, but which existed lawfully and under authorization of the Department before May 5, 1986.

(18) "Penelec" means the Pennsylvania Electric Company.

(19) "Permanent structure or facility" means a structure or facility imbedded in the land or otherwise affixed to the buffer strip or lake bottom so as to be not readily removable.

(20) "Recreational permit" means a permit issued by the Department to a person who did not:

(a) Own land adjacent to the buffer strip or adjacent to a public right-of-way adjacent to the buffer strip; or

(b) Hold deeded access to the buffer strip.

(21) "Special permit" means a permit issued by the lake manager for any temporary or permanent alteration or improvement, or both, to or of the buffer strip.

(22) "Temporary structure or facility" means a structure or facility placed on the buffer strip or in the lake so as to be readily removable.

(23) Usable Buffer Strip.

(a) "Usable buffer strip" means frontage on the buffer strip which meets one of the following tests:

(i) At a lake level of 2,462 feet of elevation, along a line drawn perpendicular to the buffer strip line and the adjoining property line, a depth of 4 feet of water is reached within 50 feet; or

(ii) At a lake level of 2,462 feet of elevation, along a line drawn perpendicular to the 2,462 feet elevation line, a depth of 4 feet is reached within 50 feet, within the boundaries of the permit site.

(b) "Usable buffer strip" does not include exceeding the total foot frontage along the buffer strip boundary held by the permittee.

(24) "Vessel" means a water craft, other than a sea plane, used or capable of being used as means of transportation on the water.

Chapter 03 Buffer Strip Uses

.01 General Public Use of the Buffer Strip.

A. Applicability. The provisions of this regulation apply to the general public, including persons who own property adjacent to the buffer strip but who do not obtain a buffer strip use permit.

B. Permissible Uses.

- (1) A person may walk along any portion of the buffer strip.
- (2) In an emergency a person may use any portion of the buffer strip for access to and from the lake.
- (3) A person who holds a valid fishing license may fish from the buffer strip.

C. Prohibited Uses.

- (1) Except as authorized by permit issued by the lake manager, a person may not:
 - (a) Construct, place, or maintain a dock, mooring buoy, or other facility or structure, or modify land or vegetation in or on the waters of the lake or on the buffer strip;
 - (b) Camp, picnic, drive vehicles, bike, build fires, or beach boats on, or swim from the buffer strip, except in areas designated for those uses by the public.
- (2) A person may not use, remove, deface, or damage a private dock, mooring buoy, navigational aid, launching ramp, fireplace, picnic table, pavilion, or other structure or facility placed on the buffer strip or in the lake by a commercial or adjacent landowner under permit from the Department.
- (3) A person may not deposit on the buffer strip or in the lake debris, garbage, sewage, waste, decaying or unused barrels, unused dock facilities, food stuff, paper, or other litter or obnoxious material, or solid waste.
- (4) A person may not attach a rope or cable to, or around, trees or shrubs on the buffer strip.

.02 Adjacent Landowner Use of the Buffer Strip.

Permit Required. An adjacent landowner may make only such uses of the buffer strip as are authorized for the general public, unless the landowner obtains a buffer strip use permit from the lake manager, or is a member of an association, condominium, or group validly operating a common dock facility for residential purposes, which has obtained a valid buffer strip use permit.

.03 Commercial Landowner Use of the Buffer Strip.

A commercial landowner shall be regulated in the same manner in which an adjacent landowner is regulated, and shall be subject to all the same provisions. In addition, a commercial landowner shall have his or her buffer strip use permit validated for commercial use.

Chapter 05 Permits

.01 General Provisions.

A. Scope of Permits.

(1) A permit does not constitute an interest in property or a proprietary right in the buffer strip or the lake.

(2) A person acting under a permit may not engage in any activity which interferes with the operation of the lake as a hydroelectric project or with authorized public use of the buffer strip or lake.

(3) Guests or tenants of a permittee may use the buffer strip in the same way as a permittee, unless restricted by the permittee.

(4) A buffer strip use permittee or guests or tenants may only use the buffer strip as authorized under Regulation .03 of this chapter. Other uses of the buffer strip by a buffer use permittee are prohibited unless authorized by a special permit, a development permit, or a nonconforming use permit.

B. Uses of the buffer strip not permitted for the general public are prohibited unless authorized by permit.

C. Area of Use.

(1) A permittee may use that area of the buffer strip located directly in front of the property through which the permittee claims access to the buffer strip as is determined by extending the permittee's property lines to the water's edge.

(2) In coves or other areas where an extended property line intersects with the extended lines of other permittees, causing conflicts in the areas of the buffer strip to be used by each or resulting in the denial of an adjacent permittee's access to the lake, or producing a similar anomalous result, the lake manager shall determine the area which each permittee may use by taking the total area of buffer strip affected by the anomalous condition, and dividing it equitably among the permittees, based on the amount of buffer strip frontage of each.

(3) When an adjacent landowner claims access through deeded access or participates in a common dock facility, the lake manager shall consider the deed or other instrument through which the landowner claims access, or covenants pertaining to the common dock facility when the lake manager determines the landowner's area of use.

(4) The lake manager shall designate on the permit the area of the buffer strip which the lake manager has determined may be used by a permittee.

D. Authority of Lake Manager.

(1) Permit Review.

(a) The lake manager may deny a permit application, or limit the use, location, type, or position of a facility authorized under a permit, if the lake manager determines that this action is necessary to protect public safety or welfare or to carry out the policies set forth in COMAR 08.08.01.01. In making a determination to grant or deny a permit, the lake manager shall consider:

(i) Public safety;

(ii) The configuration of the lake frontage;

- (iii) Fluctuation of the water line;
- (iv) Depth of water at the proposed site;
- (v) Density of existing boat usage or other recreational uses;
- (vi) Number of existing, permitted docks in the area;
- (vii) Potential navigational problems;
- (viii) Preservation of aquatic vegetation and wildlife in the area; and
- (ix) Protection of the ecological balance of the lake.

(b) If the lake manager determines, based on the criteria stated in §C(1)(a), of this regulation, that a dock cannot be permitted under an individual buffer strip use permit, the lake manager may accept an application from adjoining landowners for a common dock facility that is consistent with the criteria stated in §C(1)(a), of this regulation. This paragraph applies only where the applicants meet all eligibility requirements under these regulations, including minimum frontage.

(2) Except as provided in §F of this regulation, within 30 days of receiving a complete application and any additional information required, the lake manager shall:

- (a) Approve or disapprove the application;
- (b) Notify the applicant in writing of the action taken; and
- (c) State the grounds for the decision.

(3) The lake manager shall keep on file all applications received and copies of permits issued.

E. Allocations of New Slips after December 19, 1988. Except for permit applications for new transient slips assigned to restaurants and stores, all permit applications received after December 19, 1988 which request approval of new slips for new and existing facilities shall be reviewed by the lake manager in the following manner:

(1) From December 19, 1988 to August 31, 1990 the lake manager shall issue permits with not more than a total of 165 new slips. If requests for more than 165 new slips are received, the lake manager shall determine the priority of the applications in accordance with §D(1)(a) of this regulation. Applications received between:

(a) December 19, 1988 and April 1, 1989 shall be reviewed as a group and the approved applications shall represent the slip allocation for 1989.

(b) April 2, 1989 and September 1, 1989 shall be reviewed as a group between September 2, 1989 and December 1, 1989. The lake manager shall issue all permits or denials by December 31, 1989. These permits shall be the total new slip allocation for 1990.

(2) After August 31, 1990 the lake manager shall issue permits for new slips in the following sequence:

(a) Applications received between September 2, 1989 and September 1, 1990 shall be reviewed during the period of September 2, 1990 to December 1, 1990. The lake manager shall issue all permits or denials by December 31, 1990 which shall represent the 1991 new slip allocation.

(b) New slip allocations for subsequent years shall be made in the same sequence as §E(2)(a) of this regulation.

F. Permit Expiration. A permit issued under these regulations shall be valid for not longer than 1 year and shall expire:

(1) On March 31 of each year; or

(2) At the end of the term specified in the permit.

.02 Buffer Strip Use Permits.

A. An adjacent or commercial landowner who desires to use the lake or buffer strip other than as a member of the general public shall obtain a buffer strip use permit. Issuance of a buffer strip use permit entitles:

(1) An adjacent landowner to use the lake and buffer strip as provided in Regulation .03 of this chapter; and

(2) A commercial landowner to use the lake and buffer strip as provided in Regulation .05 of this chapter.

B. Application.

(1) An applicant for a buffer strip use permit shall apply to the lake manager on a form provided by the Department. The applicant shall:

(a) Provide all additional relevant information requested by the lake manager;

(b) Certify to the lake manager that the proposed use of the buffer strip conforms to existing zoning laws.

(2) When more than one person is eligible, as a result of joint ownership or deeded access, to obtain a permit for use of the same portion of the buffer strip, the application shall be made by one eligible person on behalf of a minimum of two-thirds of the eligible persons.

(3) Failure to meet any of the requirements of this section may result in denial of the application.

C. Eligibility.

(1) Except as provided in §C(2) of this regulation, the lake manager shall issue a buffer strip use permit to the following persons:

(a) An adjacent or commercial landowner who owns property for which a valid dock permit was issued or was eligible to be issued, before imposition of the Department's moratorium on August 12, 1983;

(b) A person who obtained a recreational permit from Penelec, holds a valid dock permit from the Department, and has continually maintained a dock in the lake, or shows good cause why these criteria are not met;

(c) A person who owns property with at least 100 feet of land fronting on usable buffer strip or on a public right-of-way adjacent to the buffer strip, if the property was subdivided and recorded among the land records of Garrett County, either by deed or subdivision plan or plat, after imposition of the Department's moratorium on August 12, 1983, provided that the property meets local zoning requirements for the construction of a residential dwelling unit;

(d) A person who owns property with less than 100 feet of land fronting on the buffer strip or on a public right-of-way adjacent to the buffer strip who desires to make only recreational use of the buffer strip and does not desire to install a dock or mooring buoy;

(e) A person who seeks a buffer strip use permit pursuant to a development permit issued by the lake manager;

(f) A person who has deeded access to the lake from a lot that meets local zoning requirements for the construction of a residential dwelling unit; and

(g) A person who owns a parcel of land adjacent to the buffer strip that was conveyed to them by Penelec after January 1, 1994, and which has frontage that was issued or was eligible to be issued a buffer strip use permit before that date.

(2) The lake manager may not issue a buffer strip use permit:

(a) To an applicant who has in the past 5 years had a buffer strip use permit revoked or is currently in violation of these regulations;

(b) If denial is required on the grounds stated in Regulation .01D of this chapter;

(c) For property for which a development permit is required, but has not been obtained;

(d) To an applicant who does not have a minimum of 100 feet of usable buffer strip frontage, unless a permit was issued for the buffer strip before July 10, 1989.

D. Fee. Upon receipt of a buffer strip use permit, the permittee shall forward to the lake manager the fee specified in the permit. The permit shall be valid only after the lake manager receives the permit fee.

E. Display of Permit Identification Numbers. Upon receipt of a buffer strip use permit, the permittee shall display the permit identification numbers on the permittee's dock, mooring buoy, and other structures so as to be visible from the lake and from land.

.03 Uses Permitted with a Buffer Strip Use Permit.

A. An adjacent landowner who obtains a buffer strip use permit may:

(1) Make general, nonprofit recreational use of the buffer strip.

(2) Fish from the buffer strip if the person has a valid fishing license.

(3) Maintain vegetation on the buffer strip by mowing grass and lawn care, including seeding, trimming, and such other activities as are necessary for maintenance of the grass only.

B. Unless otherwise authorized by a special permit, a development permit, or a nonconforming use permit, a buffer strip use permittee may install mooring buoys and a boating or swimming structure, or both, if the following requirements are met. The permittee may:

(1) Install not more than one dock for swimming or boating, or both, with slip space for not more than three boats regardless of the amount of land fronting on the buffer strip owned by the permittee;

(2) Keep up to four boats on the lake, including boats that are docked and those that are moored, not more than two of which may be power boats, or three which may be a combination of power boats and personal watercraft;

(3) Keep not more than three powerboats on the lake; and

(4) Keep beach boats or vessels in addition to the four boats allowed under §B(2) of this regulation, that individually have a total weight, including the power source, of not more than 500 pounds.

C. Docks, and boating and swimming structures shall:

(1) Be nonpermanent and easily removable from the lake.

(2) Float or have wheels.

(3) Have securely fastened flotation devices that are nontoxic, nonpermeable, and nonhazardous to aquatic life. Containers previously used for toxic material are prohibited.

D. A drum used as a flotation device shall contain sufficient positive flotation material to keep the drum visibly afloat if it detaches from the dock.

E. Mooring buoys shall:

(1) Be nonpermanent;

(2) Be marked by polystyrene, plastic, or fiberglass flotation buoys not smaller than 500 cubic inches and not larger than 4,000 cubic inches;

(3) Be white with a blue belly band;

(4) Be marked with the owner's permit number; and

(5) Have no metallic portion within 2 feet of the water's surface, other than metal connecting rings or hardware.

F. Docks, boating and swimming structures, and mooring buoys shall be located within 100 feet of the shore, or within 1/3 of the distance to the opposite shore, whichever is less, unless otherwise approved by special permit.

G. From December 1 through April 1, all docks, boating and swimming structures, and mooring buoys shall be removed from the lake, and shall be secured to or removed from the buffer strip. Vehicles may be driven on the buffer strip to comply with this section.

H. A buffer strip use permittee shall be responsible for the repair and upkeep of a dock, boating and swimming structure, or mooring buoy that the permittee installs.

.04 Uses Not Permitted within a Buffer Strip Use Permit.

A. A buffer strip use permittee may not:

(1) Install a facility on, or use the buffer strip to interfere with operations of the Deep Creek hydroelectric project or with improvement to or installation of public works;

(2) Discharge sewage or waste into the lake;

(3) Install or expand septic systems, including tanks and drain fields, on the buffer strip or as prohibited by any law or regulation relating to septic systems;

(4) Bury or dispose of garbage or trash in the lake or on the buffer strip;

(5) Remove or plant trees or shrubbery on the buffer strip without written consent by the lake manager;

(6) Alter or obstruct the natural flow of water in the lake;

(7) Erect fences or other obstructions on the buffer strip;

(8) Dredge or fill the lake except as authorized by a special permit;

(9) Perform maintenance activities including the removal or pruning of live trees, the applying of fertilizers, weed control agents, or other chemicals, the cutting of undergrowth, or any other form of maintenance on the buffer strip, except by authorization of a special permit;

(10) Remove water from the lake without the written consent of the lake manager;

(11) Interfere with public uses of the lake authorized by these regulations or the lake manager; or

(12) String a rope or cable across the water in a way that creates a safety hazard to lake users.

B. In addition to any other penalty required by law, failure to meet any of the requirements in this regulation may result in denial of the application for permit.

.05 Special Permits.

A. Application.

(1) The following persons shall be required to obtain a special permit:

(a) A buffer strip use permittee who desires to use, alter, modify, or improve the lake or buffer strip other than as authorized under a buffer strip use permit;

(b) A commercial landowner who desires to install more than one dock with three slip spaces or moorings, or who wishes to use a boat launch ramp for commercial purposes.

(2) A person who wishes to obtain a special permit shall apply to the lake manager on a form provided by the Department. When the special permit is requested:

(a) By a commercial landowner for the installation of more than one dock with three slip spaces, the applicant shall include a detailed plan for the proposed use of the buffer strip and the lake, including the proposed placement of docks, number of slips, and types of uses proposed;

(b) For alterations, modifications, or other uses of the buffer strip, the applicant shall include a detailed plan which describes materials to be used, construction methods, proposed timetables, location of modifications, and other relevant information.

(3) The lake manager may request additional relevant information from the applicant. Failure to submit requested information shall result in denial of the application.

(4) After assessing the possible damage to the buffer strip and lake, or both, the lake manager may require the applicant to submit a bond in a reasonable amount to cover the possible damage to the lake or the buffer strip. If a bond is required, the lake manager shall state in writing to the applicant the amount of the bond and the reasons why a bond is required. Failure to submit the required bond shall result in denial of the application.

B. Issuance.

(1) When the applicant requests a special permit for installation of permanent structures, excavation or filling of the buffer strip or lake bottom, or removal of vegetation, other than maintenance authorized under Regulation .03A(3) of this chapter, the lake manager may issue the permit in accordance with this regulation, as follows:

(a) In reviewing an application for a special permit, the lake manager shall consider the criteria set out in Regulation .01C of this chapter.

(b) A special permit issued by the lake manager shall specify the use, modification, construction, alteration, or activity permitted. A permittee who exceeds the authority granted in a special permit shall be liable for damage resulting from the unauthorized action.

(2) When the applicant requests the placement of a dock for a commercial landowner to accommodate greater than three slips or moorings, or the use of a boat launch ramp for commercial purposes, the lake manager may grant or deny the application as follows:

(a) If the lake manager determines that the plan for use of the lake and buffer strip is not consistent with these regulations, the application shall be denied.

(b) The lake manager may approve or disapprove the proposed location, type, and position of dock facilities and mooring areas, or otherwise condition the special permit as necessary considering the criteria set out in Regulation .01D.

(c) If the use of the boat slips or moorings includes the overnight storage of boats, not including rental boats, boats used by marina employees, or boats stored for service, or includes the leasing of boat slips to the public, the lake manager may approve not more than one slip space or mooring buoy for each 50 feet of usable buffer strip frontage to which the applicant has title, unless a permit had been issued before May 5, 1986 and the commercial use has not significantly changed. The following apply:

(i) If a property validated for commercial use significantly changes to a use other than that described in the permit and validation, then the lake manager shall restrict the number of slips or mooring buoys to one for each 50 feet of usable buffer strip.

(ii) The lake manager may assign to other commercial permittees slips in excess of the 50-foot limitation which have been eliminated from a special permittee's use permit due to a significant change in the nature of the permittee's operation.

(d) The lake manager may approve less than one slip space or mooring buoy for each 50 feet of frontage as described in §B(2)(c) of this regulation, if the lake manager determines that this action is necessary under the criteria set out in Regulation .01D of this chapter.

(e) If the use of docks or mooring buoys does not include the overnight storage of boats at docking or mooring facilities, or involve ramping or dry storage to accomplish overnight storage of boats, the lake manager may approve more than one slip space or mooring buoy for each 50 feet of frontage, providing the approved level of use is consistent with the criteria set out in Regulation .01D of this chapter.

(f) Except for boats owned by a buffer strip use permit holder stored on ramps, when the special permit approves the use of a boat launch ramp, the lake manager shall specifically designate the number and types of launchings which are to be permitted. The lake manager may alter the permitted number of launchings at any time to protect public safety or welfare or to carry out the policies set forth in COMAR 08.08.01.01. The commercial permittee shall limit the number of daily launchings to that stated in the permit.

(3) A special permit holder who violates the terms of the permit or these regulations is liable for all damages to the buffer strip or lake resulting from the violation. Upon violation of the terms of the permit or regulations by a special permit holder, the lake manager may:

(a) Revoke the bond, if any;

(b) Recover from the special permit holder any additional damages not covered by the bond.

(4) The forfeiture of the bond and any damages due are in addition to any other penalties provided in these regulations.

C. Fee. Upon receipt of a special permit, the permittee shall forward to the lake manager the fee specified in the permit. The permit shall be valid only after the lake manager receives the permit fee. This fee is in addition to any fee assessed for a buffer strip use permit.

.06 Development Permits.

A. Permit Required. A person intending to develop property adjacent to the buffer strip, and who should reasonably anticipate future requests for one or more buffer strip use permits in connection with the development and use of the property, shall obtain a development permit, if the property or the buffer strip, or both, are to be used in any of the following ways:

(1) By constructing more than one residential unit which has or will have deeded access to the same area of buffer strip;

(2) By constructing multiple family dwellings with access to the buffer strip;

(3) By installing or expanding a common dock facility;

(4) By constructing or adding onto a hotel, motel, condominium, or convention center with access to the buffer strip.

B. Application. A person who wishes to obtain a development permit shall apply to the lake manager on a form provided by the Department. In addition, the application shall:

(1) Include a plan and plat showing the lake frontage to be used and the property to be developed for which the development permit is requested;

(2) State the number of dwellings to be placed upon the property, the number of persons who will use the lake frontage, and other information relevant to use of the buffer strip by the occupiers of the property to be developed;

(3) Include a detailed plan for use of the buffer strip and the lake by persons using the area of the buffer strip to which the permit applies, including the proposed placement of a dock or docks, the number of slips, and any restrictions concerning number of boats and size of boats.

C. Request for Information. The lake manager may request information relevant to a decision as to the use of the buffer strip, and may request the applicant or parties who will use the buffer strip to prepare and execute appropriate covenants or contracts. Failure to comply with this section shall result in denial of the application.

D. Issuance.

(1) When a development permit is required for all or part of a property, the lake manager may not issue a buffer strip use permit in connection with the property unless the developer has obtained the development permit. The development permit is intended to facilitate a preliminary review process for development employing deeded access, common dock facilities, or multiple family dwellings, hotels, motels, and convention centers. After reviewing the application for a development permit, the lake manager may grant or deny the application as follows:

(a) If the lake manager determines that the plan for use of the lake and buffer strip is not consistent with these regulations, the lake manager shall deny the application for the development permit and for any associated applications for buffer strip use permits requested for the developer, the developer's successors in title, or the developer's lessees;

(b) If the lake manager approves the detailed plan for use of the lake and buffer strip that is submitted with the application, the lake manager may grant an application for a development permit and associated buffer strip use permits;

(c) The lake manager may approve or disapprove the proposed location, type and position of dock facilities and mooring areas, or otherwise condition the development permit as necessary considering the criteria set out in Regulation .01C of this chapter;

(d) The lake manager may not approve more than one slip space or mooring buoy for each 50 feet of usable buffer strip frontage adjacent to the buffer strip to which the applicant has title;

(e) The lake manager may approve less than one slip space or mooring buoy for each 50 feet of frontage as described in §D(1)(d) of this regulation, if the lake manager determines that this action is necessary under the criteria set out in Regulation .01C of this chapter;

(f) The lake manager may approve the docking of personal watercraft at a common dock facility that originated with a development permit if:

(i) The lake manager determines that this action is necessary under the criteria set out in Regulation .01C of this chapter; and

(ii) The number of personal watercraft does not exceed 1/3 the total slips allocated through the permit.

(2) The lake manager may not issue a development permit to an applicant whose plan includes any of the following:

(a) The creation of a common area with less than 200 feet of usable buffer strip frontage;

(b) The use of more than one area of usable buffer strip frontage, which does not have a continuous, uninterrupted common line shared by the applicant and the Department;

(c) The placement of common dock facilities in an area not immediately next to the proposed common use area;

(d) The intent to enter into long term lease agreements with a commercially designated facility for the purpose of obtaining additional boat slips, or short term ramping access for those not assigned boat slips in the common use area;

(e) Separate docks for less than three boats in addition to a common dock;

(f) The use of buffer strip frontage for which a previously issued buffer strip use permit exists for a single residence, unless adequate steps are taken to clearly designate a minimum of 100 feet of separate usable buffer strip frontage for that parcel;

(g) The creation of lots which do not meet local zoning requirements for the construction of a residential dwelling unit;

(h) The use of a boat ramp facility, when the ramp is intended to facilitate day use or dry storage of a number of boats which, when combined with boats stored at docking and mooring facilities, exceed the number of slips and moorings which could be permitted under the criteria described in Regulation .01D of this chapter.

(3) Before obtaining a development permit, a developer may not make any representation that a number or type of buffer strip facilities or use of the buffer strip or lake has been or will be approved by the lake manager in connection with the developed property.

(4) The lake manager may not issue a development permit to an applicant who proposes a plan for use of the buffer strip which includes a boat ramp facility, when the ramp is intended to facilitate day use or dry storage of a number of boats which, combined with boats stored at the docking and mooring facilities, exceeds the number of slips and moorings which could be permitted under the criteria described in Regulation .01D of this chapter.

E. Fees. Upon receipt of a development permit, the permittee shall forward to the lake manager the fee specified in the permit. The permit shall be valid only after the lake manager receives the fee. This fee is in addition to any fee assessed for a buffer strip use permit.

F. Activity under a Development Permit. The development permit, including the approved lake and buffer strip use plan, shall control the use of the buffer strip for the property included under the permit, and buffer strip use permits shall be issued by the lake manager either to the developer, to his tenants, or to his successors in title, only in conformance with the development permit and plan.

G. The lake manager, after consulting with the applicant, shall set a termination date for the development permit. The lake manager may extend the termination date if the applicant submits to the lake manager evidence of substantial progress. The following shall be considered evidence of substantial progress:

(1) Financing commitments which extend beyond the termination date of the permit;

(2) The installation of footers for more than 60 percent of the project;

(3) Contracts with subcontractors and material suppliers which extend beyond the termination date of the development permit;

(4) Sales contracts with prospective purchasers for more than 5 percent of the development.

.07 Notice of Application for Development Permit or Commercial Validation.

A. Upon receipt of an application for a development permit, or an application for a special permit filed by a person who requests validation of his buffer strip use permit for commercial use and desires to install more than one dock with three slip spaces, the lake manager shall take the following actions:

(1) Publish a notice of the filing and a summary of the application in a Garrett County newspaper of general circulation for at least 2 consecutive weeks, beginning not later than 10 days from the date of filing of the application.

(2) Forward a copy of the application to each property owner whose property borders the application property and the buffer strip. Within 10 days of the filing:

(a) Mail a copy of the application to the bordering property owner by Certified Mail — Return Receipt Requested, and regular mail;

(b) Forward to each member of the Deep Creek Lake Advisory and Review Committee a copy of the application.

B. Applications on file with the lake manager are a matter of public record and shall be available to the public for inspection during the lake manager's regular weekly business hours.

C. Comments received on an application pending before the lake manager shall be considered in the lake manager's review of the application. A person who is, or may be, adversely affected by a decision of the lake manager may file an appeal in accordance with the appeals process under COMAR 08.08.08.

.08 Nonconforming Use Permits.

A. Any use, structure, dock, or vessel which does not conform to these regulations is prohibited, unless the owner has obtained a nonconforming use permit by November 5, 1986, unless good cause for delay is shown.

B. A nonconforming use permit entitles the permittee to use the structure, dock, or vessel as provided in this regulation, and shall be obtained in addition to any other permits required under this subtitle.

C. Application. A person who desires to obtain a nonconforming use permit shall:

(1) Have applied to the lake manager on a form provided by the Department not later than November 6, 1986, unless good cause for delay is shown; and

(2) Submit evidence to the lake manager that the structure, building, dock, or vessel for which a nonconforming use permit is sought was in existence lawfully and authorized by the Department before May 5, 1986.

D. Issuance.

(1) After reviewing the application under the criteria set out in Regulation .01D of this chapter, the lake manager may deny or approve all or any part of the application.

(2) If the lake manager approves all or part of the application, the lake manager shall issue a nonconforming use permit which specifies the use allowed and states the term of the permit.

(3) The lake manager may not issue a nonconforming use permit for use which:

(a) Is otherwise illegal under State or federal laws;

(b) The lake manager finds represents a danger to the operation of the Deep Creek Lake Hydroelectric Project; and

(c) Existed before May 5, 1986, and which violated any previous regulations or permit governing the use of the buffer strip or Deep Creek Lake.

E. Fee. Upon receipt of a nonconforming use permit, the permittee shall forward to the lake manager the fee specified in the permit. This fee is in addition to any fee assessed for a buffer strip use permit. The permit shall be valid only after the lake manager receives the fee.

F. Revocation. An alteration, expansion, or change in the character or size of the buildings, structures, docks, or boats or all of these, aside from ordinary maintenance, shall result in the revocation of the permit and of the nonconforming use status resulting in the right of the Department to take action as if the use were illegal under these regulations and in accordance with COMAR 08.08.06.

Chapter 06 Permit Suspension and Revocation

.01 Cause for Suspension or Revocation.

A permit issued under these regulations may be suspended or revoked if the lake manager determines that the permittee or any person acting under the permit has violated these regulations or the terms of the permit.

.02 Procedure.

A. This regulation applies to permit suspension and revocation for any permit by the lake manager.

B. All notices and determinations by the lake manager shall be made in writing and delivered in person or by mail. Mailing of a notice or determination by certified mail, return receipt requested, to the permittee at each address provided in the permittee's permit application shall constitute adequate constructive notice for further proceedings under this subtitle.

C. Upon determination that grounds exist for permit suspension or revocation, the lake manager shall notify the permittee in writing of the intent to suspend or revoke the permit. The notice of intent to suspend or revoke shall describe the violation and state the corrective measures, if any, that the permittee may take within 15 days to remedy the violation.

D. Final Determination.

(1) If a violation is corrected, the lake manager may rescind the notice of intent to suspend or revoke.

(2) If a permittee fails to correct the violation within 15 days of receipt of the notice of intent to suspend or revoke, the lake manager shall suspend or revoke the permit.

(3) When a permit is suspended for 15 days or less, a person may not engage in activity authorized by the permit or use a facility installed under a permit for the period of permit suspension.

(4) When a permit is suspended or revoked for more than 15 days, a person may not engage in activity previously authorized by the permit, and within 15 days of receipt of the notice of revocation, the permittee shall remove any dock, mooring buoy or structure installed under the permit. Removal shall be in accordance with COMAR 08.08.07.

E. Except for a special permit validated for commercial use, all permits expire on an annual basis. The following permits terminate by virtue of these regulations, or upon action of the lake manager, under the following circumstances:

(1) Buffer strip use permits expire automatically upon the sale or transfer of the property covered by the permit, except in the case of a common dock facility where the privileges for a specific eligible property which has been sold expire and the permit remains in effect for the remaining property owners;

(2) Recreational permits expire:

(a) Automatically and permanently upon sale or transferral of property covered by permit; or

(b) For failure to renew the permit for more than 1 year;

(3) Special permits expire automatically upon the conversion of commercial property to noncommercial use or upon a significant change in the commercial operation requiring substantial modifications to the special permit;

(4) Nonconforming use permits expire:

(a) Upon the action of the lake manager when the permittee or any other person substantially changes or alters the structure, building, boat, or vessel;

(b) Upon the action of the lake manager when the nonconforming building, structure, dock, or boat has not been used for more than 1 year; and

(c) Automatically upon the transfer or sale of the property covered by the permit.

F. Development Permits. The lake manager shall specify the term of the development permit on the permit in accordance with COMAR 08.08.05.06G.

Chapter 07 Removal of Docks, Mooring Buoys, Structures, and Facilities

.01 Lapse, Revocation, or Other Termination of Permits.

A. Upon lapse, revocation, or other termination of a permit, a permanent structure or facility under the permit shall remain with the land unless the Department orders removal in writing for the following reasons:

(1) The Department determines that the structure or facility is or may become a safety hazard;

(2) The Department determines that the structure or facility is or may become an interference with the operation of the Deep Creek Lake hydroelectric project;

(3) The Department determines that the structure or facility is or may become an interference with public use of the buffer strip; or

(4) The Department determines the structure or facility should be removed for aesthetic reasons due to dilapidation.

B. Upon lapse, revocation, or other termination of a permit for a temporary structure or facility, the permittee shall remove, at the permittee's expense, the temporary structure or facility and restore the land to its natural condition.

.02 Removal of Safety Hazards.

The Department may immediately remove, or the lake manager may order the immediate removal of, a safety hazard on the buffer strip or in the lake. The lake manager shall notify the permittee or other responsible person by certified mail. The person responsible for creating the safety hazard shall be liable to the Department for all costs of removal and damage to the lake or buffer strip, or both.

.03 Removal by Department.

A. Upon failure of a person to remove a structure or facility within 30 days after notice to remove is sent by the lake manager, the Department may have the structure or facility removed. The person shall be liable to the Department for the cost of removal and storage.

B. A person who places or maintains a dock, mooring buoy, or other facility without first obtaining a permit from the lake manager, or after suspension or revocation of a permit, shall be subject to removal of the facility by the Department at the expense of that person.

.04 Reclamation.

A person may reclaim a dock, mooring buoy or structure removed and stored by the Department by reimbursing the Department for the cost incurred. If a person fails to reclaim the property within 6 months of its removal, the Department may dispose of the property.

.05 Failure to Comply.

If the lake manager orders removal of the structure, facility, safety hazard, dock, or mooring buoy and the permittee fails to comply within the time allowed, then the bond in COMAR 08.08.05.05A(4), if required, shall be forfeited and the proceeds applied to:

A. Removal;

B. Damages to the lake or buffer strip, or both; and

C. Storage.

Chapter 08 Appeals

.01 Right of Appeal.

A. A person who is aggrieved by a decision of the lake manager relating to a permit application or permit violation may file a written appeal with the Secretary of the Department of Natural Resources not later than:

(1) 30 days after the date of the lake manager's final decision; or

(2) If the lake manager fails to act, 30 days from the last date the lake manager may act under COMAR 08.08.05.01D(2).

B. The Secretary shall provide a contested case hearing on the appeal and issue a final decision in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, and COMAR 08.01.04.

C. A person who is aggrieved by a final decision of the Secretary may seek judicial review of the decision in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, and COMAR 08.01.04.

Chapter 09 Violation of Regulations

.01 Violation of Regulations.

In addition to all other remedies and penalties set forth in this subtitle, violation of the regulations is a misdemeanor punishable under Natural Resources Article, §5-1301, Annotated Code of Maryland.