

**ARTICLE 8: CLAYTOR LAKE SURFACE DISTRICT (CL)**  
**SPECIAL PROVISIONS <sup>303</sup>**

**Statement of Intent**

It is the intent of this section to establish specifications for uses and activities that could occur within Appalachian Power Company's Project Boundary for the Claytor Hydroelectric Project (Claytor Lake Surface District). Specifications have been developed for the purpose of promoting water safety and protecting Claytor Lake's scenic, environmental, and recreational values. In addition, the specifications are intended to encourage fair division of shoreline space among property owners, to ensure integrity of construction materials and methods, and to minimize environmental concerns in Claytor Lake waters and along its shoreline. Further, structures shall not interfere with navigation, ingress or egress to adjoining properties, or in any manner, present a safety hazard.

**8-1 Area Considered**

This section shall apply to the Claytor Lake Surface District that includes in general all land and surface waters below the 1850-foot contour National Geodetic Vertical Datum (NGVD) or such other elevation as would be determined by a certified survey and to land uses bordering on and directly affecting the use of water of Claytor Lake.

**8-2 Overlay District**

This district may be considered as an overlay zone; its peripheral boundaries may overlap zones landside of Claytor Lake.

**8-3 Piers and Docks Regulated**

Piers, docks, decks, and boatslips are to be constructed, located and maintained according to the following specifications.

**8-3.1 Compliance**

All piers, docks, and boatslips must comply with all local, state, and federal regulations and subdivision covenants. Also, prior to beginning any construction within the Claytor Lake Surface District the applicant must obtain all necessary governmental permits or approvals and written authorization from the Pulaski County Zoning Administrator.

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<sup>303</sup> Article 8 Revised 08/25/2003; major revisions promoting water safety and protecting scenic, environmental and recreational values.

## PULASKI COUNTY ZONING ORDINANCE

### 8-3.2 Location

All structures shall be constructed between the property owner's side lot lines extended into project lands and into the water. If an extended side lot line does not effect fair division of the shoreline with an adjoining neighbor then the two property owners can mutually agree in a written document to a revised extended side lot line. This agreement or easement shall be in recordable form and be permanently recorded in the Office of the Clerk of the Pulaski County Circuit Court by the property owner and shall be considered the established extended lot line unless later mutually modified in writing and recorded by the property owner or his successors. An original copy of this agreement or easement shall accompany all applications for construction particular to these circumstances.

### 8-3.3 Setback

All structures must maintain a setback of at least 15 feet from the adjoining property owner's side lot line extended onto the Claytor Lake Surface District. **See figure 1-2.** Construction may be allowed between the setback line of 15 feet and the extended side lot line if the adjoining property owner(s) grant their written permission and if the construction will not cause unfair use of the shoreline and if the construction will not create a hazard to navigation. The Zoning Administrator shall consult with Appalachian and the Virginia Department of Game and Inland Fisheries in making such decision. In case of such permission, the agreement or easement shall be in recordable form and be permanently recorded in the office of the Clerk of the Pulaski County Circuit Court by the property owner and permanently filed with Appalachian.

### 8-3.4 Length

Structures shall not extend further waterward more than 50 feet or one-fourth the width of a cove or channel as measured at full reservoir elevation, whichever is less. **See figure 1-3.** A variance to this requirement may be granted based on water depths or adjacent pier lengths. The Zoning Administrator will determine the reasonableness of such variance requests and will consult with Appalachian and the Virginia Department of Game and Inland Fisheries to ensure safe navigation.

### 8-3.5 Shoreline Vegetation

Selective clearing of vegetation within the Claytor Lake Surface District (1850-foot contour NGVD or such other elevation as would be determined by a certified survey) may be permitted to facilitate construction of private dock facilities. However, efforts should be made to minimize the amount of shoreline and aquatic vegetation removed or impacted during construction. Trees greater than six inches in diameter may not be cut or removed from the Claytor Lake Surface District unless to facilitate the construction of an appropriately designed and approved private dock facility.

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8-3.6 Upland Structures and Decking

With the exception of a single walkway, there shall be no structures or decking upland within the Claytor Lake Surface District.

8-3.7 Walkway

Only one walkway shall be permitted per structure. The walkway shall not exceed six feet in width, nor be less than four feet in width. **See figure 1-4.** Walkways between berthing slips must be at least three feet in width.

8-3.8 Handrails

Handrails are required on all walkway sections leading to floating docks and on walkways leading to stationary docks if walkways are 30 inches or more above full pond elevation (1846 foot USGS level). The sides from the handrails to the dock shall not be enclosed as enclosure could obscure visibility.

8-3.9 Reflectors

Two-inch minimum diameter white reflectors shall be affixed along the sides of the structure at intervals of eight feet and within two feet of each of the two corners of the structure or pilings that are located farthest from the shoreline in order to identify the outline of the structure. Reflectors must be placed within two feet of the full pond elevation (1846 foot USGS level). **See figure 1-5.** In lieu of reflectors, white reflective tape may be used.

8-3.10 Minimum Shoreline

A lot having less than 100 feet of shoreline (as measured along the full pond elevation) and suitable for residential uses will not be considered for a pier, dock or common-use slip unless it was subdivided and recorded prior to August 25, 2003. No more than one pier, dock or common-use boatslip per waterfront lot will be considered for approval.

8-3.11 Maximum Square Footage

The total overall size of a property owner's structure and slip areas shall not exceed 1000 square feet. The square footage shall be calculated utilizing the structure's footprint and shall include the open slip area and all existing upland improvements within the Claytor Lake Surface District.

8-3.12 Shared Dock Facility

Two adjoining shoreline lots having a total of 150 feet minimum shoreline width may share a dock facility. Shared dock facilities must be located on-or close to the adjoining property line. Specifications for shared dock facilities are the same as for private dock

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facilities, except for specifications regarding lot width. Shared dock facility applicants are individually and jointly responsible for compliance with these specifications. Failure of one applicant to comply therewith may render both lots ineligible for a shared dock facility and subject to other enforcement.

### 8-3.13 Common Docks

A common dock or common use facility is a dock that provides lake access for two (shared pier) to ten single-family residential lots with no more than one boatslip per residential lot. Common docks are encouraged for all lake properties as an alternative to individual docks and may be necessary on property with poor access and/or with less than 100 feet of shoreline. Property owners are encouraged to adopt the common dock concept to reduce the number of docks on the shoreline and limit congestion in heavily developed areas. Common dock facilities may have up to one slip for access from off-water lots with single-family dwellings for each 100 feet of shoreline owned (as measured along the full pond elevation) that is suitable single-family use excluding the lot with the common use facility. The number of slips will be rounded to the nearest whole number. Example: If the property contains 600 feet of shoreline designated for single-family use, then six (6) slips may be considered to provide access for off-water lot owners. Common use facilities must comply with the Virginia Department of Health's Marina Regulations.

### 8-3.14 Enclosures

Enclosed storage areas may be permitted on docks but shall not exceed 48 square feet in size and shall be located within ten feet of the back of the dock as measured from the landward side, excluding the walkway. The storage area may be enclosed with siding or screening or a combination of both. However, structures within the Claytor Surface District (1850-foot contour NGVD or such other elevation as would be determined by a certified survey), whether located on land or in water, shall not be used for human habitation and shall not be equipped with household fixtures such as sinks, showers, toilets, etc. The bulk storage of petroleum and chemical products is not permitted on these structures or within the Claytor Surface District, nor are sanitary sewer lines or drain fields allowed. Gas cans up to six gallons are allowed.

### 8-3.15 Maximum Height

The maximum height of any and all private recreational facilities shall not exceed 16 feet above the full pond elevation. For Claytor Lake the full pond elevation is considered to be 1846 feet above mean sea level.

### 8-3.16 Fixed Decking

All fixed decking must be at least two feet above the full pond elevation of 1846 feet above mean sea level.

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### 8-3.17 Wetlands

Docks and piers extending over native vegetated wetlands will be elevated to a height that is equal to the width of the walkway less one foot to prevent total shading of vegetation, substrate, or other elements of the aquatic environment.

### 8-3.18 Live Load Rating

Decking for any and all private recreational facilities will accommodate uniform live load rating not less than 50 pounds per square foot.

### 8-3.19 Materials

All wood will be pressure treated except in the areas of docks protected from the weather. Pilings shall be pressure treated to 1.0 lbs/cu-ft of copper chromated arsenic (CCA) or an equivalent level recommended by the Environmental Protection Agency. Metal or pre-cast concrete pilings are acceptable. No portion of a metal piling or I-beam shall have a material thickness of less than one-fourth inch. Creosote timber and pilings shall not be used.

### 8-3.20 Design

The sides of gazebos and private dock facilities are not to be enclosed. Gazebos may be screened. However lattice shall not be permitted.

### 8-3.21 Floaters

All floating piers, docks, etc. shall have their flotation units constructed of material in such a manner that they not become water logged or sink when punctured or exposed to the water for an extended time. Steel and recycled industrial drums are prohibited and the uncoated, beaded polystyrene will not be permitted for any new construction or as replacement flotation for existing facilities.

### 8-3.22 Boat Lifts

Boat lifts and canvas boat lift covers suitable for installation are permitted for private dock facilities that are in compliance with the above specifications. Canvas boatlift covers can be no more than ten feet in height above the deck and can be used to cover the boat only.

### 8-3.23 Electrical Requirements

All installation of electrical devices must meet or exceed National Electrical Code (NEC) Standards for Wet Location, Marinas and Boatyards and the following additional requirements:

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- a. All wiring must be underground in 40 U.L. P.V.C. conduit and follow access paths.
- b. All wiring on a dock must be of a type approved for wet locations. If a cable is used, a wet location cable such as UF is required. If conduit will be used for all circuits on the dock, THHN, THW, or similar denoted conductors approved for wet locations are required. Note: NM cable and wiring, commonly used in a house, are not approved for wet locations.
- c. All jet pumps, electrical boxes, electrical devices, walkway lighting must be above the 1850 foot contour.
- d. A disconnect is required at the shore or on the dock. The panel must be at least three feet above full pond (the 1846 foot contour) and it must be considered as a sub panel. This requires the ground and neutrals to be insulated.
- e. Receptacle height must be a minimum of four feet above the deck on a floating dock and three feet on a stationary dock.
- f. Boat hoists powered by an electrical motor are required to have the hoist's chassis grounded to an eight foot ground rod with a minimum # eight copper ground wire. The ground rod is to be driven flush with grade at the shore.
- g. All receptacles shall be ground fault circuit interrupter protected.
- h. All fixtures and lights must be approved for wet locations and shall not be mounted to extend beyond the outer perimeter of the boat dock.
- i. All lighting must be aimed downward.

### 8-3.24 Completion

The construction of any facility must be completed as described in the approved application and within 18 months from the date of application approval.

### 8-3.25 Commercial Watercraft

Watercraft used for commercial purposes shall not be permanently docked at a residential area dock but must be docked at a multi-use or commercial/non-residential docking facility.

### 8-3.26 Habitation

Boats used for habitation may not be permanently moored at private docks. Permanent mooring must be at marinas with sewer pump-out and treatment facilities.

### 8-3.27 Applicant

The applicant must be the owner or lease holder of the tract of land immediately adjoining the Claytor Lake Surface District. The applicant will be held fully responsible for the permitted reservoir use (including maintaining structures in good repair). This responsibility is considered to transfer automatically with the ownership and leases of the adjoining tract.

8-3.28 Recreation Facility Permit

The Appalachian private recreation facility permit must be displayed on, or in close proximity to, the permitted facility such that the permit number is clearly visible from the water.

8-3.29 Requirement for Residentially Zoned Property

**(Section Deleted** – see Accessory Buildings above 150 sq. ft. in size without a main principle dwelling) <sup>304</sup>

8-3.30 Nonconforming Structures

There are structures and improvements constructed prior to initiating regulations on August 25, 2003, which are not compatible with the requirements contained herein. These structures may continue to exist despite their nonconforming nature and may be expanded provided the nonconforming aspect of the structure is not increased. Maintenance of all structures is encouraged. If maintenance requires more than 49% of the physical structure, excluding the pilings, to be replaced or repaired, the structure must conform to the new requirements. If pilings need to be replaced, then the footprint of the structure may be replaced provided documentation has been provided detailing the structure.

Property owners of nonconforming dock structures that have been destroyed by accident or natural event may apply to replace the destroyed structure with another structure of the same footprint. Any structure that has been destroyed for more than two (2) years shall be rebuilt in conformance to the provisions of this ordinance.

Property owners of nonconforming structures other than docks that are within the Claytor Lake Surface District and were constructed prior to the implementation of these regulations that have been destroyed by accident or natural event may apply to replace the destroyed structure with another structure of the same footprint provided that it is not feasible to relocate the structure outside of the Claytor Lake Surface District and it does not create a navigation, safety or environmental concern. Permanent sanitation facilities and habitable structures will not be allowed to be rebuilt.

**8-4 Commercial/Non-Residential Dock Facilities Regulated**

All Commercial/Non-Residential Dock Facilities and any other proposed commercial use or use supporting a commercial endeavor require an approved Special Use Permit from the Pulaski County Board of Supervisors. Prior to approving any Special Use Permit within the Claytor Lake Surface District, the Board of Supervisors shall consult and coordinate with Appalachian in order to coordinate authorization of the facilities with Appalachian and the Federal Energy Regulatory Commission (FERC).

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<sup>304</sup> Revised 06/27/2005 to delete language requiring an existing house or a house under active construction prior to issuance of a construction permit for a private dock facility.

Waterfront business activities within a Commercial District (CM-1) must satisfy the site plan requirements of Article 18.

**8-5 Commercial/Residential Facilities (Townhouses, Condominiums, Subdivision Access Lots, etc.) Regulated**

Commercial/Residential dock facilities are facilities where boats can be launched, retrieved or moored for the purpose of providing access to the reservoir for certain residential property owners. These facilities include docks accommodating more than ten watercraft serving single-family dwellings and all docks serving multi-family dwellings. In determining the number of slips, the applicant shall consider the total number of slips per development. For example, a developer may not have multiple docks with each having eight slips and serving a single subdivision in an effort to circumvent Appalachian Power Company's permitting process that requires prior Federal Energy Regulatory Commission. Residential properties associated with this classification include townhouses, condominiums and subdivision access lots.

All Commercial/ Residential Dock Facilities and any other proposed commercial/residential use or use supporting a commercial/residential endeavor require an approved Special Use Permit from the Pulaski County Board of Supervisors. Prior to approving any Special Use Permit within the Claytor Lake Surface District, the Board of Supervisors shall consult and coordinate with Appalachian in order to coordinate authorization of the facilities with Appalachian and the Federal Energy Regulatory Commission.

**8-6 Criteria for Rebuilding Existing Commercial Facilities**

All facilities must comply with all applicable local, state and federal regulations. Also, all necessary governmental permits or approvals, a FERC order (if applicable) and written authorization from Appalachian must be obtained by the applicant prior to beginning any activity/construction within the Claytor Lake Surface District.

**8-7 Moorings and Floats**

When placed in the Lake for navigational purposes, moorings and floats shall be so placed only with the expressed written approval of the Board of Supervisors or its delegated agent. The Virginia Department of Game and Inland Fisheries shall be consulted prior to approval. Building regulations shall include:

- 8-7.1 When placed for the purpose of mooring boats or other legal and authorized floating objects, the mooring shall be separated on every side from any other mooring by a distance of fifty (50) feet.
- 8-7.2 Moorings and floats shall be located so as to permit unobstructed passage on the Lake of through boats.
- 8-7.3 Moorings and floats shall not be anchored in such manner as to deny or obstruct in any manner access to the Lake from boat docks or piers, boat houses, or boat launching ramps.

**8-8 Permitted Uses by Special Use Permit Only**

Within the Claytor Lake Surface District, the following uses are permitted by Special Use Permit (SUP) only:

- Commercial/Non-residential Dock Facilities
- Commercial/Residential Dock Facilities
- Exceptions to limitations on piers, private dock facilities, and/or moorings may be allowed by Special Use Permit.
- No Boat Buoys. The Virginia Department of Game and Inland Fisheries shall be consulted prior to approval.
- No Wake Buoys where needed for safety of boat traffic in the vicinity of parks or waterfront business activities. The Virginia Department of Game and Inland Fisheries shall be consulted prior to approval.
- State Water Control Board Permitted Sewage Facilities.

Appalachian shall be consulted prior to issuance of any Special Use Permit within the Claytor Lake Surface District so as not to violate Appalachian's license with the FERC.