

RIFLE RIVER NATURAL RIVER PLAN

OGEMAW AND ARENAC COUNTIES

MAY 1980



FISHERIES DIVISION

MICHIGAN DEPARTMENT OF
NATURAL RESOURCES
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RIFLE RIVER
NATURAL RIVER PLAN

MAY 1980

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TABLE OF CONTENTS

INTRODUCTION.....	1
THE WATERSHED AND STUDY AREA.....	2
A. General Characteristics	2
B. Physiography and Soils	2
C. Water Quality	2
D. Stream Characteristics.....	8
E. Vegetation	10
F. Climate	10
G. Ownership	11
H. Accessibility.....	11
EXISTING USES AND RECREATIONAL OPPORTUNITIES	12
A. Land Use	12
B. Private Recreation Facilities.....	12
C. Public Recreation Facilities.....	12
D. Fishing.....	14
E. Wildlife Observation and Hunting	14
F. Canoeing and Boating	15
G. Historic and Archaeological Sites.....	15
PRELIMINARY NATURAL RIVER PLAN.....	18
A. Goal.....	18
B. Objectives.....	18
C. Proposed Designation.....	18
D. Natural River District.....	19
E. Residential Housing	19
F. Industrial and Commercial Structures and Uses	20
G. Building Setback	21
H. Building Design and Screening.....	22
I. Docks.....	23
J. On-Site Sanitation Systems.....	23
K. Signs.....	23
L. Soil Erosion and Sedimentation Control Measures	24
M. Minerals.....	26
N. Utilities.....	26
O. Agriculture	26
P. Disposal of Solid Waste	27
Q. Stream Alteration	27
R. Land Alteration	27
S. Natural Vegetation Strip on Adjacent Shoreline.....	28
T. Recreation.....	29
U. Public Access Sites.....	30

V. Motorized Vehicle..... 31

W.	Historic and Archaeological Sites	31
X.	Administration.....	31
Y.	Management of Areas Beyond the Natural River Zone.....	33
APPENDIX A – PART 305 – NATURAL RIVERS PA 451 OF 1994		35
APPENDIX B – RELATED LAWS.....		39

It is the intent of this plan to develop management recommendations for the Rifle River system that will help to protect its many natural qualities under Michigan's Natural River Act. Protection will include not only the mainstream, but the significant tributaries as well.

This report: (1) provides a physical description of the river and the watershed as a whole; (2) reviews values of the river and factors affecting its future nature and use; and (3) provides a plan for the protection of the river's natural qualities.

This plan is the result of a joint effort between the Department of Natural Resources and the "Rifle River Advisory Group". This advisory group consisted of riparian property owners, elected township and county officials, canoe livery owners, and representatives of property owners associations, sportsman's groups, and other interested citizens and groups. Except for the recommendation on building setbacks, the plan has the general consensus of the advisory group. Many local citizens and officials on the advisory group felt that the recommended 150 foot building setback is too restrictive.



INTRODUCTION

The Natural River Act (Part 305, P.A. 451 of 1994) authorizes the Natural Resources Commission to establish a system of “natural rivers” in the state to provide for their preservation, protection and enhancement. Section 30502 of the Natural River Act states, in part, that: “The commission, in the interest of the people of the state and future generations, may designate a river or portion thereof, as a natural river area for the purpose of preserving and enhancing its values for water conservation, its free flowing condition and its fish, wildlife, boating, aesthetic, floodplain, ecologic, historic and recreational values and uses.”

Most of the Rifle River possesses the necessary outstanding natural characteristics to be included in Michigan’s natural river system. The swift moving stream is one of the fastest in the Lower Peninsula, and the many miles of scenic beauty and quality trout fishery make this river extremely popular.

WATERSHED LOCATION



Local Governmental Units



I. THE WATERSHED AND STUDY AREA

A. General Characteristics

1. The Rifle River watershed is located in Ogemaw and Arenac counties, draining an area of approximately 385 square miles. The river originates in northeastern Ogemaw County and flows for approximately 60 miles in a southeasterly direction to its confluence with Lake Huron.
2. The study area includes the entire mainstream as well as the numerous smaller tributaries which make up the system.

B. Physiography and Soils

The topography of the Rifle River area is varied. The northern portion of the watershed has rolling hills that rise above 1,300 feet in elevation. Below the City of Omer near Lake Huron, the river enters a broad flat area that includes an extensive system of drains.

Like many other watersheds in Michigan, the effects of glaciation are evident. Rolling hilly moraines predominate in the Ogemaw County area of the watershed and the old Lake Huron lake bed characteristics the Arenac County portion. To the west of the watershed is a major glacial moraine, the West Branch moraine, and in the east is the Gladwin moraine. The entire mainstream flows through outwash plain. Much of the watershed is underlain with claypan. The resulting rapid water runoff makes the Rifle one of lower Michigan's least stable streams. Clay ledges are seen extensively throughout the Rifle River system.

Soils can be grouped into associations based on texture and drainage characteristics. The soil associations throughout the watershed along with their various characteristics can be seen on the map on the preceding page, along with the accompanying table.

C. Water Quality

Considering the intensity of agricultural uses and practices in the watershed, water quality of the Rifle River system is surprisingly high and fairly stable.

The water quality of the Rifle near its mouth is shown graphically on page 5. The river is shown as averaging 79.2 on the Water Quality Index. The index is rated as follows:

70 – 100	- high water quality
50 – 70	- moderate water quality
50 and lower	- poor water quality

For comparison purposes, the Rifle River is rated with several other streams throughout Michigan, again, using the Water Quality Index. This comparison is shown on page 6.

At the present time, there are two proposals for improving sewage treatment facilities in the river basin. It has been recommended that the wastewater treatment plant in West Branch be expanded from secondary to tertiary treatment, and it also has been proposed to increase the secondary treatment capacity in Rose City. Expansion of these facilities will further improve water quality in the basin.

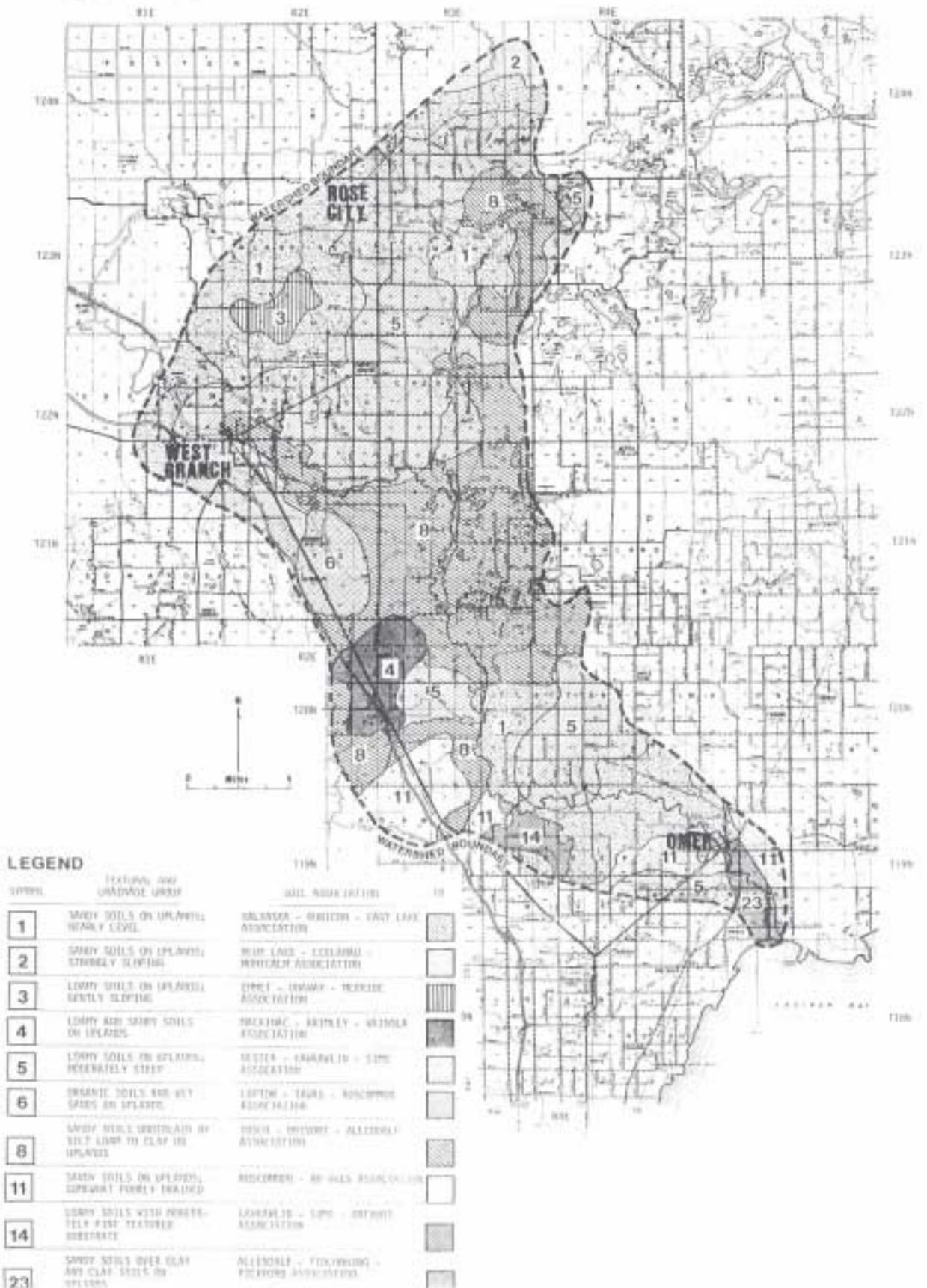
The water quality of the Rifle River system is protected for:

1. total body contact – recreation
2. agriculture
3. industrial water supply'
4. navigation
5. public water supply
6. cold water fish

One problem that does exist, which can be seen dramatically after a rain, is erosion. The graph on page eight shows suspended solids in the mainstream near the mouth of the Rifle from the years 1964 to 1978.

Causes for this erosion are varied. Much of it is natural. The clay pan which underlies much of the watershed results in rapid water runoff. Another cause of the erosion problem is livestock management practices, particularly on several of the tributary streams. And there are many high exposed sandbanks, particularly in the lower portions of the stream.

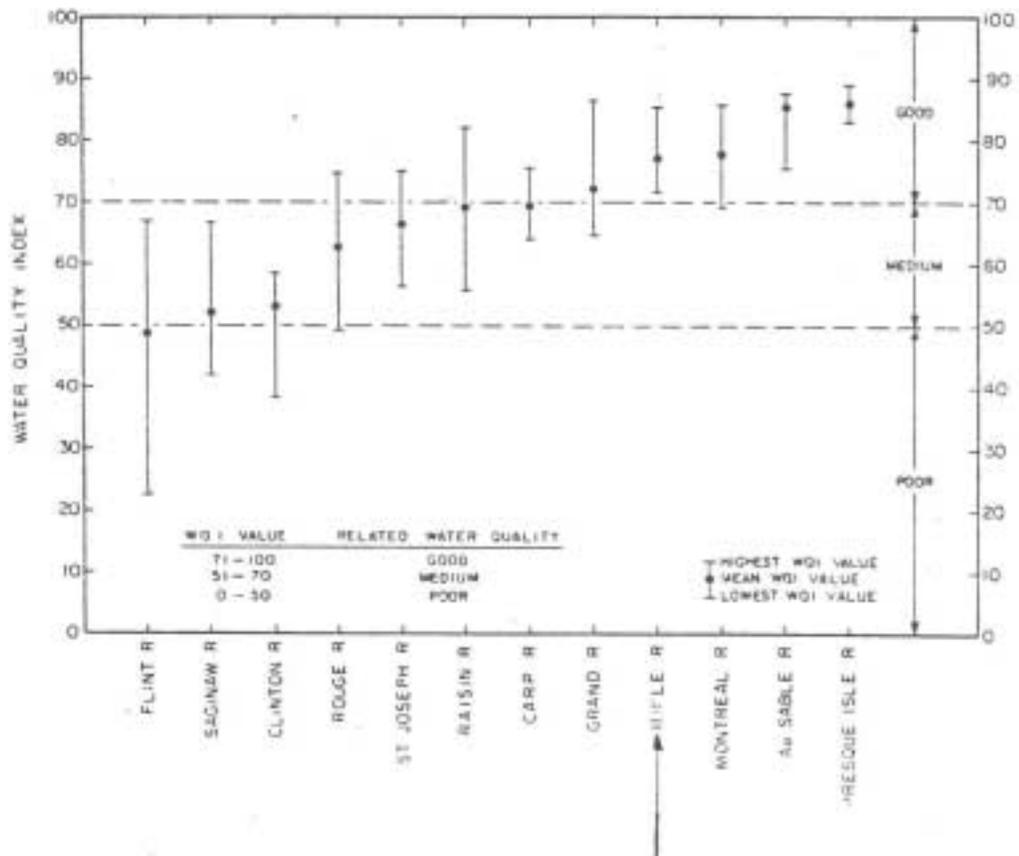
Soil Associations

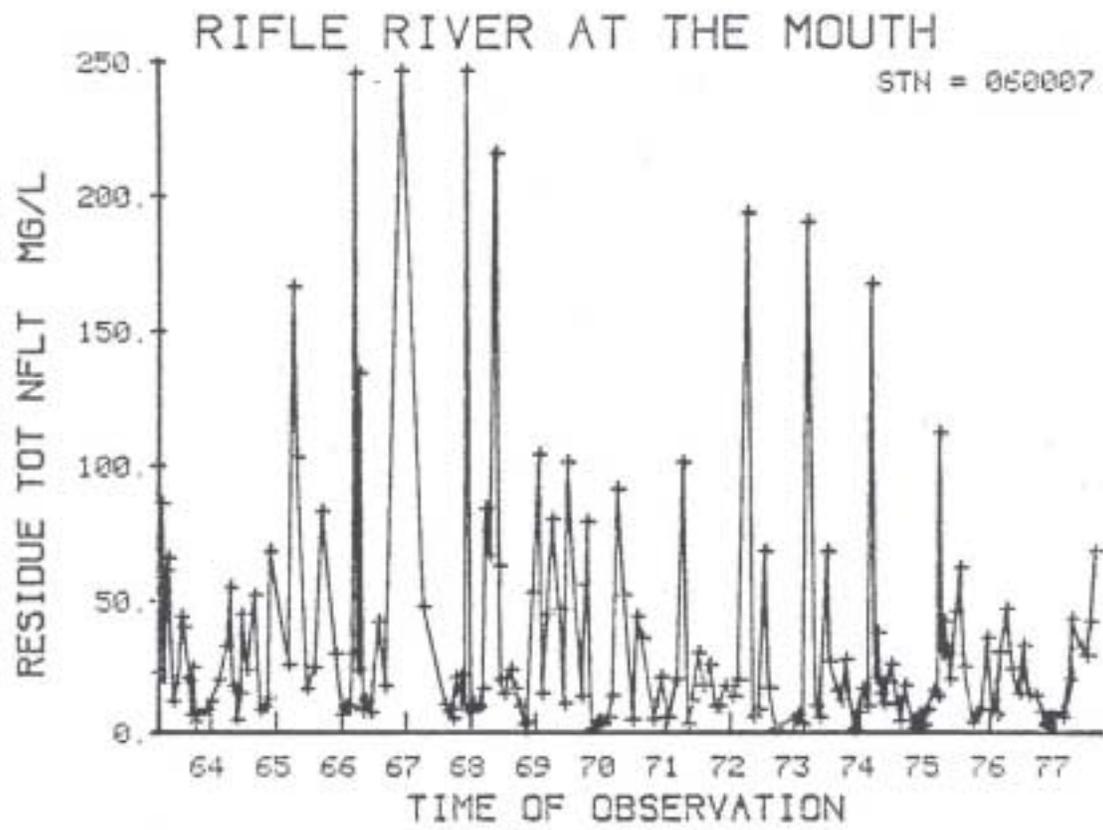


Rifle River Water Quality Data
1974-75 vs. 1977-78

<u>Parameter & Reporting Units</u>	<u>1977-78</u>	<u>1974-75</u>
Dissolved Oxygen mg/l	10.49	11.17
5 day BOD mg/l	2.19	2.69
Turbidity	9.93	10.87
Dissolved Solids mg/l	288.0	264.0
Chloride mg/l	17.77	16.75
Total Phosphorus mg/l	.035	.051
Soluble Orthophosphate mg/l	.007	.018
Nitrite and Nitrate mg/l	.171	.201
Amonia Nitrogen mg/l	.022	.031
Hardness mg/l	211.0	204.0
Total Coliform count/100 ml	3050.0	1607.0
Fecal Coliform count/100 ml	223.0	85.0

A COMPARISON OF THE RIFLE RIVER W.Q.U. WITH SELECTED RIVERS





D. Stream Characteristics

There are approximately 200 miles of streams in the Rifle River system. The mainstream is approximately 60 miles long and there are about 140 miles of tributaries.

The following list shows the length of the Rifle River and its tributaries:

Mainstream	From the outfall of Mallard Pond to Saginaw Bay, 58.2 miles
Skunk Creek	From George Lake to confluence with the Rifle River, 5.2 miles
Vaughn Creek	From its source to its confluence with Gamble Creek, 3.1 miles
Gamble Creek	From its source to Mallard Pond, 2.7 miles
Oyster Creek	From Oyster Road to Mallard Pond, 4 miles
Mayhue Creek	From its source to the confluence with Oyster Creek, 3 miles
Andrews Creek	From Reasoner Road to Mayhue Creek, 2.4 miles
Houghton Creek	From its source to its confluence with the Rifle, 7.8 miles
Wilkins Creek	From its source to Houghton Creek, 6.5 miles
Prior Creek	From its source to its confluence with the Rifle, 6.5 miles
Ammond Creek	From its source to Prior Creek, 2.8 miles
Little Klacking Creek	From its source to its confluence with Clacking Creek, 2.8 miles
Shepard Creek	From Bedelyn Road to its confluence with the Rifle, 1.2 miles
Dedrich Creek	From its source in Dedrich Swamp to its confluence with the Rifle, 2.2 miles
West Branch	From the outfall of Flowage Lake to its confluence with the Rifle, 10.1 miles
Campbell Creek	From its source to its confluence with the West Branch, 4.8 miles
Peach Creek	From its source at Peach Lake to its confluence with Campbell Creek, 4.2 miles
Rifle Creek	From the outfall of Rifle Lake to Flowage Lake, 2.4 miles
Crapo Creek	From its source at Engle Road to Rifle Lake, 2.5 miles
Rapid Creek	From its source (spring) to Crapo Creek, .4 miles
Woods Creek	From pond below Heintz Lake to its confluence with Rifle Creek, 5.9 miles
Ogemaw Creek	From its source to Flowage Pond, 6.3 miles
Smith Creek	From its source to Ogemaw Creek, 1.1 miles
Eddy Creek	Mainstream, 1 mile

North Eddy Creek	From its source to its confluence with South Eddy Creek, 3.6 miles
South Eddy Creek	From its source to its confluence with North Eddy Creek, 5 miles
Silver Creek	From the outfall of Burch Lake to its confluence with the Rifle, 5.4 miles
Mansfield Creek	From its source to its confluence with the Rifle, 5.8 miles
Feeding Ground Creek	From Feeding Ground Lake to its confluence with Mansfield Creek, 1.6 miles
Mud Creek	From its source to the Feeding Ground Creek, 1.1 miles
Mills Creek	From its source to the confluence with Feeding Ground Creek, .4 miles
Wells Creek	From Forest Lake to its confluence with the Rifle, 2.3 miles
Townline Creek	From its source to the confluence with the Rifle, 2 miles
Saveline Creek	A drain, 2.4 miles
Unnamed creeks	8.6 miles.

The Rifle River system originates in the northeastern part of Ogemaw County. At one time, the source of the stream was Devoe Lake. Back in the early 1950's, however, a diversion was dredged around the lake. This was done to allow the cold water streams that once flowed into Devoe Lake to flow directly into the Rifle, thus avoiding the warming effect of the lake.

The upper ten miles of the Rifle River flows through the Rifle River Recreation Area and the Ogemaw State Forest. This upper portion is fairly slow moving and easy to negotiate by canoe.

Below the Village of Selkirk, the gradient of the river steepens. The topography of the area becomes more varied as well, with hills and river ridges becoming more pronounced. Below the confluence of the West Branch and Lake Ogemaw (an artificially created lake), the valley becomes more pronounced. Here 75 to 100 foot embankments have been carved out by the river. Also, it is here the first of the rapids on the Rifle River are found. Much of this portion of the river has sand and gravel stream bottom offering good spawning areas. South of Skidway Lake, the river is much the same, offering good trout fishing. And the normally fast water offers a challenge to the canoeists as well. Thus, this area is extremely popular with canoeists and fishermen.

A notable exception to the moderately fast moving water is a stretch of river near the Ogemaw-Arenac County line. Here the water is slow and fairly sluggish.

In the vicinity of the old M-70 bridge, the generally southerly direction of the river turns eastward toward the City of Omer.

The bottom type between old M-70 and Lake Huron is predominately sand. In this portion of the river, the river valley is still quite pronounced and the river still flows moderately fast.

Below Omer, the character of the river changes dramatically. The bottom type is all sand. The speed of the river slows considerably and the upland portion becomes a broad flat plain.

Where the Rifle enters Lake Huron is called Wigwam Bay. This area is being recommended for acquisition by the Coastal Program Unit of Land and Water Management Division of the Department of Environmental Quality for the purpose of developing an estuarine sanctuary. The area provides an excellent fish and wildlife habitat. The proposed Wigwam Bay estuarine sanctuary would provide an excellent Great Lakes research area, should this area be acquired.

E. Vegetation

Vegetation along a river serves many functions, including stabilizing the soil and preventing erosion, absorbing nutrients, providing shade for cooling the water, and providing a visual barrier giving privacy to the property owner and maintaining the aesthetics along the river corridor.

The major vegetative types in the basin are aspen, jackpine, scrub oak, northern hardwoods, red and white pine plantations and mixed swampland species, particularly in the northern portion of the water shed. Most of the forest stands are in second and third growth, with over 60 percent of the watershed forested.

F. Climate

The climate of the Rifle is modified continental. That portion of the Rifle basin near Lake Huron does not have the abrupt variations in temperature typical of the continental climate. These variations are reduced, particularly when the winds are from the west.

In the upper portion of the Rifle basin, farther away from Lake Huron, the effects of the Great Lakes are less evident. For example, near Standish the average growing season (frost free-days) is 127 days. At West Branch, farther away from Lake Huron, the growing season is about 135 days.

Throughout the watershed, summers are warm and pleasant. Temperatures reach 100°F only about once in ten years, and an average of only seven days each summer have temperatures of 90° F or higher. Nights are cool and comfortable. The average annual temperature is about 43°F. The coldest month is January, with an average temperature about 19°F; the warmest month is July, with an average temperature about 67°F.

Precipitation averages about 29 inches annually. More than 50 percent of the precipitation received falls during the five-month period of May through September.

G. Ownership

The Rifle River basin covers an area of approximately 385 square miles. A small part of the Huron National Forest is located in the extreme northern portion of the watershed. Also, in the northern portion of the watershed is the over 4,000-acre Rifle River Recreation Area managed by the Department of Natural Resources.

Public lands on the Rifle River mainstream are generally limited to the Rifle River Recreation Area and the Au Sable State Forest. However, small state holdings are found scattered along the length of the mainstream.

The following table gives a breakdown of public lands and their ownership in Ogemaw and Arenac counties.

	All Land	National Forest	% National Forest	State Forest	State Park	Water Access Site	% DNR Lands	Local Public Recreation Lands	Total Public Recreation Lands
ARENAC	235,136	0		28,008	200	110	12	21	28,339
OGEMAW	365,696	19,543	5.5	71,277	4,329	529	20.8	75	96,153

H. Accessibility

The Rifle River is readily accessible to Michigan’s southeast population centers. Direct access to the watershed is easily accomplished by I-75 which skirts in on the west. Cutting the watershed in two is the east-west route of M-55. M-33 roughly parallels much of the Rifle on the west and U.S. 23 crosses the river at Omer.

In all, there are nine road bridge crossings from the Rifle River Recreation Area to the City of Omer.



II. EXISTING USES AND RECREATIONAL OPPORTUNITIES

A. Land Use

Agriculture and recreation are the predominant land uses in Ogemaw and Arenac counties. Approximately 91,000 acres, or almost 38 percent of Arenac County is in agriculture. In Ogemaw County over 80,000 acres, or 22 percent, is in agriculture. Much of the agricultural use is in dairy and cattle.

Recreation is also a major use in the area. Approximately 700,000 people live within one hour's drive of the Rifle. In Arenac County, recreation lands account for approximately 28,000 acres, and in Ogemaw County, federal, state and local recreation lands total almost 100,000 acres.

B. Private Recreation Facilities

In Ogemaw and Arenac counties, there are almost 1,200 private campsites available. In addition, in 1978 there were over 900 rental canoes available in the two counties through 15 canoe livery owners. This makes the Rifle River one of the most popular in all of Michigan.

C. Public Recreation Facilities

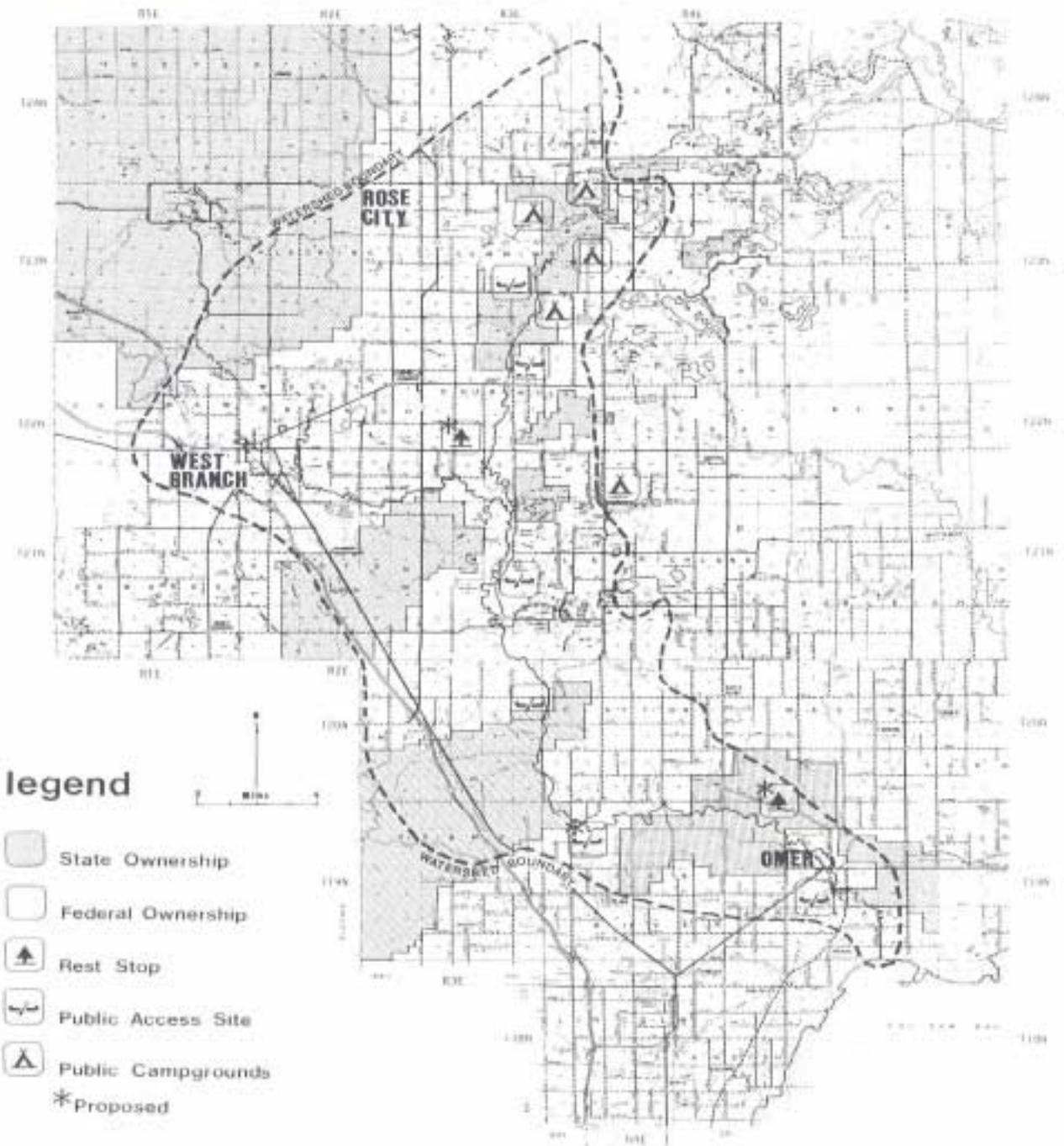
The Rifle River Recreation Area covers 4,329 acres in Ogemaw County, and is the most predominant recreation facility in the watershed. The park offers 159 campsites, has several hiking trails and several lakes in its boundaries.

Also in the watershed are two state forest campgrounds. The Rifle River campground provides 40 campsites and is located on both sides of the Rifle River. Hardwood Lake State Forest Campground has 22 campsites available.

Currently under development just outside the watershed is Pinconning State Park which will add further to the recreational opportunities of the area.

Public canoe access to the Rifle River is fairly good. Access sites are located in the Rifle River Recreation Area, the state forest campground, near Skidway Lake, Moffatt Bridge, and at Omer. In addition, there is a partially developed access site near the confluence of Klacking Creek with the Rifle.

RECREATION FACILITIES



D. Fishing

The Rifle provides fair to good brown trout fishing during the spring until about the last week of June, and again from about Labor Day until the end of the trout season. At these times, spin casting with hardware and streamer fly-fishing are productive methods. The slack fishing period which occurs during the summer appears to be the result of high water temperatures coupled with low stream flow.

Except for Skunk Creek and Ammond Creek, most tributaries north of Selkirk can be described as good to excellent trout streams. Of these, Klacking, Houghton, Gamble and Wilkins creeks are the best. Clacking Creek has an excellent population of brown trout with many fish larger than 14 inches and with some going over 20. Fishing is usually a challenge on this stream due to its extreme clarity.

Gamble Creek is a good brown trout tributary, and enters the Rifle via a diversion ditch around the northwest end of Devoe Lake.

Houghton Creek is an excellent feeder stream to the Rifle River and is large enough to support fly-fishing, after it is joined by Wilkins Creek. A previous state record brown trout of 36 5/8 inches, weighing 17 pounds five ounces, was taken from this stream in 1952.

Although brown trout typically predominate in the tributaries of the Rifle, some fine brook trout are also present.

Of the tributaries which center below Selkirk in Ogemaw County, only Eddy Creek can be considered a good trout stream. The West Branch of the Rifle, a sizable tributary, supports fair to good trout populations above Flowage Lake. From Flowage Lake to its confluence with the mainstream, the West Branch is considered nontrout. At this point, the West Branch represents about a third of the Rifle's drainage area.

Each spring, the Rifle supports a tremendous sucker run from Saginaw Bay and Lake Huron. While most of the excitement and activity relative to this sucker run takes place in the lower Rifle near Omer, the run extends to nearly all the waters in the system. For example, both Klacking and Prior creeks receive heavy runs.

E. Wildlife Observation and Hunting

Game species in the area include white tailed deer, cotton tailed rabbits, ruffed grouse, woodcock, squirrels, raccoons, mink, fox, beaver and muskrats.

The Wigwam Bay area is heavily used during spring migrations of waterfowl. Two duck hunt clubs are found in the Bay area.

Hunting for both large and small game and waterfowl are popular recreational activities. Nonconsumptive uses of wildlife for photography and observation are gaining in popularity. Most participants in these activities come from the metropolitan areas to the south and provide a major source of revenue to the local economy. Trapping of furbearers is popular with local residents.

F. Canoeing and Boating

In terms of numbers of rental canoes available and combined with those of the Boy Scouts of America Camp, the Rifle River is one of the most popular rivers in Michigan. Its proximity to the population concentrations of the Saginaw Bay area, the river's scenic beauty, the moderately fast water with numerous rapids, and the cold clear waters all add up to an extremely popular river for canoeists.

Through most of the year the entire Rifle River mainstream is floatable. During the low water period of mid-summer, the river can still be negotiated, although dragging of the canoe should be expected through the shallow areas.

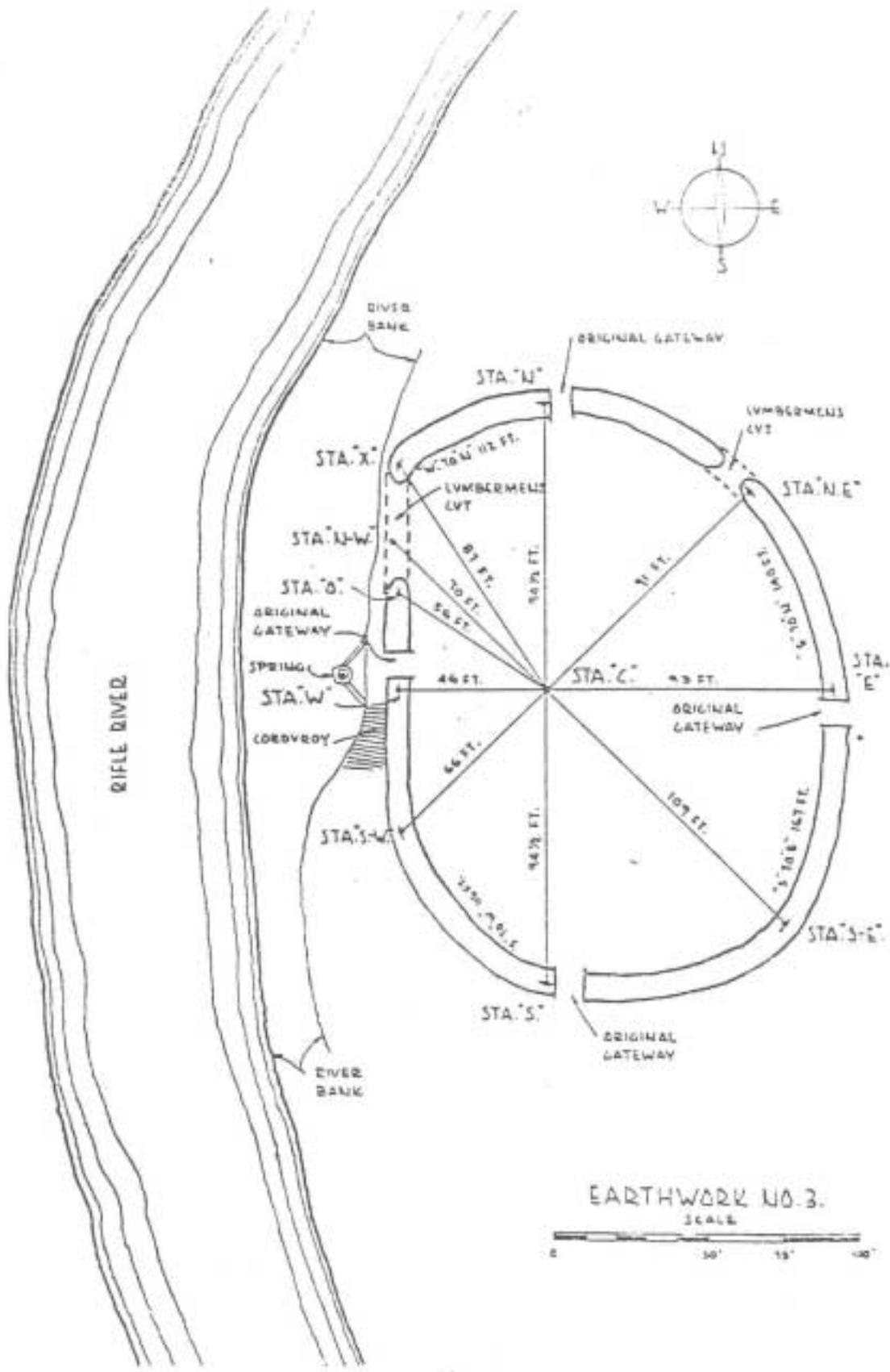
There are numerous canoe liveries throughout the Rifle system. Many of these operators not only provide canoes, but for those wishing to take a trip more than one day, they offer overnight camping areas. The Detroit area Boy Scouts also have a camp located on the river, and provide overnight camping areas along the mainstream as well.

G. Historic and Archaeological Sites

There are two archaeological sites immediately adjacent to the Rifle River, both are on private land located in Churchill Township, and both would qualify for National Historic Site designation. Such designation does not open these sites to public use, and can assure the sites will be protected for future generations.

The two archaeological sites in question are the Rifle River Earthworks #3 and #4. These are two of a group of five similar sites near Selkirk in Churchill Township. All contain circular or semi-circular earthworks consisting of earthen embankments two to three feet high inside a ditch several feet deep. The embankments once supported log palisades.

Such sites were used as winter villages during the period AD 1100-1400. The earthworks were not necessarily defensive structures; the palisades may have served primarily as protection from wind and snow. No evidence of warfare has as yet been found on this type of site. The people who lived in these villages were horticulturists who lived near Lake Huron or perhaps in the Saginaw Valley in warmer seasons. The drawing on the following page shows one of these sites.



DESIGNATED PORTIONS



III. PRELIMINARY NATURAL RIVER PLAN

A. Goal

To preserve, protect and enhance the Rifle River environment in a natural state for the use and enjoyment by all generations.

B. Objectives

1. Maintain the water quality of the Rifle River and its tributaries consistent with the wild-scenic classification of the river and adhere to the concept of nondegradation of water quality.
2. To prohibit or limit those developments and activities which may damage or destroy the Rifle River's free flowing condition, its fish, wildlife, boating, scenic, aesthetic, flood plain, ecologic and recreation values and uses.
3. To ensure that the development and activities which do occur shall be in an orderly manner, shall insure the protection of the river's natural values and qualities, and shall protect the river's outstanding scenic and aesthetic qualities.
4. To ensure that recreational uses which do occur, be done in an orderly manner consistent with the natural environment and aesthetic qualities of the stream, and that a quality recreation experience is maintained.

C. Proposed Designation

It is recommended that the following portions of the Rifle River be designated as a wild-scenic river under the authority of Act 231, P.A. 1970:

Mainstream: From, and including, Mallard Pond to the northern city limits of Omer, including all channels of the mainstream, except the old channels leading into and out of Devoe Lake (approximately 50 miles).

Tributaries: (approximately 60 miles):

1. Gamble Creek from Heath Road in Rose Township (T24N, R3E) to Mallard Pond in the Rifle River Recreation Area (2.8 miles).
2. Vaughn Creek from Heath Road in Rose Township (T24N, R3E) to its confluence with Gamble Creek (2.0 miles).
3. Oyster Creek from Oyster Road in Rose Township (T24N, R3E) to its confluence with Mallard Pond (4.0 miles).
4. Mayhue Creek from the pond in Section 28 of Rose Township (T24N, R3E) to its confluence with Oyster Creek (2.8 miles).
5. Houghton Creek from Heath Road in Rose Township (T24N, R3E) to its confluence with the Rifle River (6.5 miles).
6. Wilkins Creek from Campbell Road in Klacking Township (T23N, R2E) to its confluence with the Rifle River (3.8 miles).
7. Prior Creek from Morrison Road of Cumming Township (T23N, R2E) to its confluence with the Rifle River (4.9 miles).

8. Klacking Creek from its source in Foose Swamp in Section 34 of Klacking Township (T23N, R2E) to its confluence with the Rifle River (5.2 miles).
9. Little Klacking Creek from its source in Section 26 of Klacking township (T23N, R2E) to its confluence with Klacking Creek (2.4 miles).
10. Dedrich Creek from Gerald Miller Road in Churchhill Township (T22N, R3E) to its confluence with the Rifle River (.7 miles).
11. West Branch from the outfall of Flowage Lake in West Branch Township (T22N, R2E) to its confluence with the Rifle River (11 miles).
12. Eddy Creek (both North and South branches) from M-33 (the Huron-Mills Township line) to its confluence with the Rifle River (5.2 miles).
13. Silver Creek from Elbow Lake Road in Mills Township (T21N, R3E) to its confluence with the Rifle River (4.7 miles).
14. Mansfield Creek from Melita Road (old M-70) Mills-Richland Township line to its confluence with the Rifle River (3.0 miles).
15. Fritz Creek from Fritz Road in Clayton Township (T20N, R4E) to its confluence with the Rifle River (.6 miles).

The Rifle River Advisory Group feels that these tributaries, having a total of approximately 60 miles, possess the necessary fish, wildlife, boating, scenic, aesthetic, floodplain, ecologic, historic or recreation values to be of statewide significance and should be considered for designation.

Other tributaries of the Rifle system, as well as the mainstream below Omer, although not recommended for designation may still be protected through adoption of protective zoning at the local level. Although not formally designated, these tributaries should be considered part of the natural river system for agency reviews of applications for sewage treatment plants, dredge and fill, impoundments, etc.

D. Natural River District

The Rifle River Natural River District includes an area 400 feet wide on each side of and parallel to all channels of the designated mainstream and to the designated tributaries. This district establishes a definable area within which local or state zoning may guide future development and use. ESTABLISHMENT OF THIS DISTRICT IN NO WAY IMPLIES A "TAKING" OF THESE LANDS BY THE STATE OR OPENING THEM UP TO PUBLIC USE. PRIVATE LANDS REMAIN PRIVATE AND ARE SUBJECT TO ALL RIGHTS OF PRIVATE OWNERSHIP.

E. Residential Housing

Unplatted lots and new subdivisions in the Natural River District shall accommodate the building setbacks as set forth in Section G, and on the mainstream shall have a minimum riverfront lot width of 200 feet.

On all designated tributaries of the Rifle River, lots shall be a minimum of 150 feet wide.

Lots or properties of record that are nonconforming at the time of the effective date of these regulations because of lack of size to accommodate setback from the water's edge shall be allowed to be built upon and variances shall be allowed for the required setback upon such reasonable terms as set forth by the zoning administrator or the zoning review board.

Upon approval by the Department of Natural Resources of an ordinance, a local community may allow the administrator of their zoning ordinance to determine the location of proposed structures on substandard lot of record, provided that structures be so placed so as to best meet the objective of the Natural River Act and this plan.

One single family dwelling will be permitted on each lot or parcel within the Natural River District subject to the building setbacks as set forth in Section G. A single-family dwelling is defined as a detached building or structure designed for or occupied exclusively by one (1) family and containing housekeeping facilities.

F. Industrial and Commercial Structures and Uses

1. New industrial uses and buildings, and expansion of existing uses and buildings will not be permitted within 400 feet of the designated river and tributaries.
2. Commercial uses and buildings and expansion of existing uses and buildings such as canoe liveries, gas stations, motels, restaurants, retail stores, etc., will not be permitted within 400 feet of the designated river and tributaries. However, certain commercial uses requiring special exception permits may be compatible with maintaining the natural aspects of the river. Those uses permitted under the special exception procedures shall be strictly controlled. Controls such as location, design, coloring and screening of structures, parking, drainage, setback, natural vegetation strip, signs, hours of operation of the proposed use, shall be included in the special exception procedure. Those uses which may be compatible with natural river designation include:
 - a. Commercial crop farms or forest plantations that are landward of the native vegetation strip.
 - b. Small home operated businesses such as photography studio, beauty shop, home repair, insurance, or other businesses which do not alter the residential nature of the property and are in conformance with established setbacks and vegetative management guidelines.
 - c. Detached rental cabins with light housekeeping, but not motels, which are in conformance with setback requirements and vegetative management guidelines.
 - d. At the discretion of the local community, private campgrounds will be permitted in the natural river district, provided the following standards are met:
 1. Minimum lot size shall be 35 acres.
 2. There shall be a minimum river frontage of 660 feet.
 3. There shall be a 100-foot natural vegetation strip.

4. No structure or camping shall be permitted closer than 200 feet from the river.
 5. All standards and requirements of the Public Health Code, Act 368 of P.A. 1978, shall be met.
 6. One foot trail from the campground to the river, no greater than ten feet in width shall be permitted. Also, a foot trail parallel to the river within the natural vegetation strip is allowed for use of fishermen and other recreational users. This trail shall be designed so as to minimize damage to the vegetation and protect the stream from erosion and other potential adverse impacts.
 7. One sign per lot or parcel, no greater than four square feet, informing river users of the location of the campground, shall be permitted in the natural vegetation strip.
 8. No commercial launching or retrieval of canoes shall be permitted. However, privately owned canoes may be launched and retrieved.
- e. New canoe liveries, or expansion of existing liveries, for commercial launching or retrieval of watercraft in the designated portions of the river system shall be prohibited. In considering rezoning, special exception or variance requests, or outside of the 400-foot Natural River District, local units of government should examine closely the effects such use will have on the natural qualities of the Rifle River system, the need for additional local government services, and the safety and enjoyment of riparian landowners and other river users.

G. Building Setbacks

On the designated portions of the Rifle River mainstream, new buildings and appurtenances will be required to be setback a minimum of 150 feet from the ordinary high water mark. The setback may be decreased one foot for every one foot rise in bank height to a minimum of 100 feet from the ordinary high water mark.¹ Further:

1. New buildings and appurtenances must be setback at least 50 feet from tip of the bluff² on the cutting edge³ of the stream.
2. New buildings and appurtenances must be setback at least 25 feet from the top of a bluff, on the noncutting edge of the stream.

¹Ordinary high water mark means “the line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high water mark. (This is the definition used for administration of the Part 301, P.A. 451 of 1994.)

²“Bluff” means the top of a steep bank rising sharply from the water’s edge.

³“Cutting edge of a stream” means the outside edge of a river or stream where water velocity has increased to the point where it may cause soil or stream bank erosion.

3. No building shall take place on land that is subject to flooding.⁴

On all designated tributaries, new buildings and appurtenances will be required to setback a minimum of 100 feet from the ordinary high water mark of the tributary provided that no building shall take place on land that is subject to flooding. The setback may be decreased one foot for every one-foot risk in bank height to a minimum of 75 feet from the ordinary high water mark.

In order to allow local communities along the Rifle river greater zoning flexibility and at the same time ensure the long-range protection of the natural values of the Rifle River, local communities may, at their discretion choose to adopt a site plan review* concept for zoning the river. Such a site plan review ordinance must meet the spirit and intent of natural river designation. And just as with all local natural river zoning, meet with the approval of the Department of Natural Resources.

H. Building Design and Screening

1. Property owners along the Rifle River are encouraged to use natural materials and natural unobtrusive colors in the construction of new or remodeling of existing buildings. Upon request to the Department of Natural Resources, individual property owners will receive technical advice on location and design of structures and management of their lands. Such requests and the Department's response should be channeled through the local zoning administrator.
2. Property owners of new or existing buildings visible from the river are encouraged to screen them with native vegetation. The Department of Natural Resources Area Forester and Soil Conservation Service will advise on planting stock, etc., on request. When available at state nurseries, recommended planting materials will be supplied to property owners at cost.

⁴"Land that is subject to flooding" means that area of land adjoining the designated portions of river and tributaries which:

- a. Will be inundated by a flood which has a one percent chance of occurring or being exceeded in any given year (intermediate regional flood), as determined by detailed hydraulic studies which are acceptable to the Michigan Water Resources Commission; or
- b. In the absence of such detailed floodplain studies, have a history of flooding or are delineated by approximate methods such as USGS flood prone area maps or HUD's special flood hazard boundary maps.

*Site plan review may be defined as a zoning ordinance which describes the documents, drawings, procedures and standards for determining compliance of proposed land uses with ordinance requirements. Specifically with regard to a designated natural river, it refers to a zoning technique for reviewing a river site development plan for consistency with an approved natural river zoning ordinance and the adopted Rifle River Natural River Management Plan.

I. Docks

The construction of docks along the designated portions of the Rifle River system is discouraged. However, if necessary to provide safe and ecologically sound access for the riparian landowner, docks may be constructed not to exceed four feet in width nor more than 12 feet in length with no more than four feet of the dock extending over the water. Docks must be constructed in accordance with the rules of Part 301, P.A. 451 of 1994. The use of “natural” materials and camouflaging is encouraged. Property owners are encouraged to build “log-sod covered” docks. Upon request from the property owner, the Department of Natural Resources will supply plans and specifications for this type of dock or assist in the siting and location of a dock so as to blend in with the natural surroundings and best meet the objectives of the natural river designation.

J. On-Site Sanitation Systems

All habitations within the Natural River District shall be provided with sanitary waste disposal facilities conforming in type to those required by health specifications of the State of Michigan and the county or district health department having legal jurisdiction. The facilities provided may be for either water borne waste disposal by the septic tank-absorption tile field method or for nonwater borne disposal by the use of a health department approved or other State of Michigan approved sanitary system.

Minimum standards for new septic systems along designated portions of the Rifle River system shall be as follows:

1. The setback for septic tanks and absorption field shall be a minimum of 150 feet from the ordinary high water mark.
2. The bottom of the absorption field shall be at least four feet above the known high ground water table.
3. No absorption field shall be closer than 50 feet from any permanent surface or subsurface drainage system.
4. Variances from these standards may be allowed by the district health departments where existing lots of record cannot conform because of their size.

The bottom of an earth privy shall be not less than four feet above the known high ground water table. Where this is not feasible, a water tight vault shall be installed.

K. Signs

Only those signs necessary for: identification, direction, resource information, regulation of use, and related to permitted uses, shall be placed along the designated river and tributaries. Within the Natural River District, signs for the

sale of products or services shall be prohibited. Signs within the Natural River District must be:

1. Not illuminated.
2. In conformance with the following standards:
 - a. Signs may not be larger than one square foot in area posted no more than one per 100 feet or one sign posted at upstream and downstream corner of lot. However, one temporary real estate “for sale” sign per parcel of land not to exceed four square feet in area shall be allowed outside of the natural vegetation strip (as described in Sections F and S).
 - b. Signs posted by public agencies must be kept to a minimum, of rustic design, no larger than ten square feet in area, not attached to any tree or shrub, and placed so as to best meet the objectives of the Natural River Act.
 - c. The Department of Natural Resources shall initiate a signing program at major access sites along the mainstream emphasizing litter control and respect for private property. Signs should be placed along the mainstream, particularly at bridge crossings and all other strategic locations indicating present location and float time to rest areas and access sites.

(Note: Signs by public agencies may need to be larger or within the 400-foot Natural River District to provide for public safety, such as warning of impending dangers in the river, or for an interpretive or historic sign.)

L. Soil Erosion and Sediment Control Measures

1. Because of the high degree of natural and man caused erosion (see The Watershed and Study Area, Section C), a comprehensive erosion control program is needed on the Rifle River.

It is recommended that the following measures be undertaken:

- a. The Department of Natural Resources should increase their priority use of Dingell-Johnson funds for erosion control and fish habitat improvement structures along the Rifle River.
- b. If and when Congress reinstates funding of Resource Conservation and Development (RC&D) Programs, such a program should be initiated in the Planning and Development Region, with erosion control measures along the Rifle River given a high priority.
- c. The Department of Natural Resources and the Soil Conservation Service have programs and technical assistance available to property owners for controlling erosion on streams. These services as well as other pertinent information regarding Michigan’s Natural River Program should be outlined in an informational brochure designed for property owners along the Rifle River. This procedure will be developed by the Department of Natural Resources.

- d. An association of property owners, canoe livery owners, fishermen—anyone who has an interest in the protection of the Rifle River could be formed. It could be the fundamental purpose of the organization to promote programs and actively take part in improving the quality of the river. The Department of Natural Resources can assist in the formation of such a group. This assistance can be in the form of supplying mailing lists, drafting by-laws, etc. (See Appendix A.)
2. Michigan's Soil Erosion and Sedimentation Control Act, Part 91, P.A. 451 of 1994. All earth changing activities, other than normal landscaping or maintenance, undertaken within 500 feet of a lake or stream must be conducted in accordance with the requirements of Part 91, P.A. 451 of 1994, its administrative rules and those procedures established by the local enforcing agency.

Development along the river involving earth moving shall provide for water disposal and/or protection of the soil surface during and after construction.

Practical combinations of the following will provide effective erosion control when skillfully used in planning and construction:

- a. The development plan should be fitted to the soils and topography so as to create the least erosion potential. Local offices of the Soil Conservation Service often can provide general and detailed information on soil characteristics of a given site and on the suitability of such soils for various uses.
- b. Wherever feasible during construction, natural vegetation shall be retained and protected. Where adequate vegetation does not exist, temporary or permanent vegetation shall be established where possible.
- c. Where it is necessary to remove vegetation for construction, limit the exposed area to the smallest practical size at any one time.
- d. Limit the duration of exposure of soils to the shortest practical time.
- e. Critical areas exposed during construction should be protected with temporary vegetation and/or mulching.
- f. Permanent vegetation and improvements, such as roads, storm sewers, and other features of development capable of carrying storm runoff in a safe manner, shall be installed as early as possible.
- g. Provisions should be made to accommodate the increased runoff caused by changed soil and surface conditions during and after construction.
- h. Sediment basins to remove suspended soil particles from runoff water from land undergoing development should be constructed

and maintained wherever erosive conditions indicate their need to prevent sediment damage to the river.

- i. Diversions, grassed waterways, grade stabilization structures, and similar mechanical measures required by the site shall be installed as early in the development as possible.

M. Minerals

New development, exploration or production of oil, gas, salt brine, sand and gravel, or other minerals except ground water are not permitted within 300 feet of the designated river or tributaries (Sec. 30509, Part 305). On new leases on state land, Natural Resources Commission policy prohibits drilling for gas or oil within ¼ mile of any principal stream.

N. Utilities

Except on existing rights-of-way, new gas or oil pipelines, or electric transmission lines shall not be permitted in the Natural River District or to cross the designated river and tributaries without prior written consent of the Department of Natural Resources. Plans for these transmission lines which include crossing the river district or the river and designed tributaries shall be done in accordance with the rules entitled Utilities and Publicly Provided Facilities in Natural Rivers Areas (Section 30514 of Part 305).

New distribution lines shall not cross the designated portions of the river or housing setback zone unless they are placed underground, or if overhead lines are less disruptive to the environment. Plans for distribution lines which area to be placed under the river shall be approved by the Department of Natural Resources and all construction shall meet the requirements under the Soil Erosion and Sedimentation Control Act (Part 91, P.A. 451 of 1994) and the Inland Lakes and Streams Act (Part 301, P.A. 451 of 1994). Local service lines to private dwellings shall originate from the landward side of the dwelling insofar as practical.

Management of trees, shrubs and other vegetation for maintenance of utility rights-of-way shall be done manually in the natural vegetation strip. However, hand application of herbicides to stumps of selectively cut trees will be allowed in the natural vegetation strip where it is the objective to establish and maintain a low growing shrub community in this zone. The department may authorize application of selected pesticides to control insect or disease infestations.

O. Agriculture

Grazing will be permitted within the natural vegetation strip unless the Land and Water Management Division of the Department of Environmental Quality determines that it contributes to stream degradation (Act 245, P.A. 1929). In those cases, livestock will be fenced out to protect the riverbanks. Cattle crossings and watering areas shall be constructed according to accepted methods, after the landowner has consulted with the local Soil Conservation District, Soil

Conservation Service, County Cooperative Extension Service and/or Department of Natural Resources.

Water withdrawal for irrigation will continue to be permitted in accordance with the rights of other riparians and the public values associated with the Rifle River system.

New agricultural uses and practices shall be allowed in the Natural River District provided they are landward of the natural vegetation strip.

P. Disposal of Solid Wastes

No unsightly or offensive material, including but not limited to trash, refuse, junk cars, junk appliances, or garbage, shall be dumped or stored within the Natural River District.

No dumps or sanitary landfills shall be permitted within 400 feet of the designated portions of the Rifle River or its tributaries.

Q. Stream Alteration

To protect the natural character of the river and the natural flow of its waters, no damming, dredging, filling or channelization of the stream channel will be permitted in those portions of the Rifle River or tributaries designated under the Natural River Act unless approved by the Department of Natural Resources under authority of Michigan's Inland Lakes and Streams Act, Part 301, P.A. 451 of 1994.

Natural materials should be used to construct stream bank stabilization projects to control erosion, or to enhance fisheries habitat. These structures should be camouflaged and the local conservation officer, district fish biologist, or Soil Conservation Service representative contacted to provide technical advice for such projects. All work done below the ordinary high water mark requires a permit under the authority of the Inland Lakes and Streams Act, Part 301, P.A. 451 of 1994.

Permission must be obtained from the property owner when removing fallen trees and log jams from the river. If there is an extensive removal of log material from the bottom during these operations, advice should be sought from the district fish biologist.

R. Land Alteration

The following uses are prohibited:

1. Cutting or filling for building, including appurtenances, on the floodplain.
2. Filling for buildings on the upland within 400 feet of the river's edge where the highest ground water table is within six feet of the surface.

Dredging or filling for the construction of fish or wildlife ponds within 500 feet of the river requires a permit under Michigan's Inland Lakes and Streams Act (Part 301, P.A. 451 of 1994) and the Soil Erosion and Sedimentation Control Part 91, P.A. 451 of 1994).

S. Natural Vegetation Strip on Adjacent Shorelines

Trees, shrubs and other vegetation native to the area shall be maintained and enhanced on each side of the river and tributaries to retain the river's natural values. Maintenance of the natural vegetation strip is required to help in stabilizing the riverbanks, prevent erosion, provide shading which will help maintain cool water temperatures, absorb nutrients from surface water runoff, provide screening of man-made elements, protect fisheries and wildlife habitat, and maintain the aesthetic quality of the river.

1. Vegetation Strip:

Public Land. On all publicly owned land, a one hundred and fifty (150) foot minimum restricted cutting strip shall apply on each side of the mainstream. On designated tributaries, a one hundred (100) foot minimum restricted cutting strip shall apply.

Private Land. On privately owned land, a seventy-five (75) foot minimum restricted cutting strip shall apply on each side of the mainstream, and on all designated tributaries, a fifty (50) foot restricted cutting strip shall apply.

Distances of natural vegetation strip are measured horizontally from the ordinary high water mark.

2. Restricted Cutting and Removal of Vegetation: Restricted cutting of dead, diseased, unsafe or fallen trees is allowed. Selective removal of trees for commercial timber harvest, access of woodlot improvement shall be allowed upon specific approval of the Department of Natural Resources or its representative.
3. Selected Cutting for Visual Access: Trees and shrubs may be selectively pruned or removed for a filtered view of the river upon approval of the Department of Natural Resources or its representative. Filtered view of the river means maintenance or establishment of woody vegetation of sufficient density to screen new developments from the river, provide for streambank stabilization and erosion control, serve as an aid to infiltration of surface runoff and provide cover to shade the water. It need not be so dense as to completely block the river view. It means no clear cutting.
4. Agriculture: Grazing will be permitted within the natural vegetation strip unless the Land and Water Management Division of the Department of Environmental Quality determines the grazing contributes to stream degradation (Part 31, P.A. 451 of 1994). In those cases, livestock will be fenced out to protect the riverbanks. Cattle crossings and watering areas shall be constructed according to accepted methods, after the landowner has consulted with the local Soil Conservation District Soil Conservation

Service, Cooperative Extension Service, and/or the Department of Natural Resources.

5. Planting of Native Vegetation: Planting of native species is encouraged in the vegetation strip to enhance and protect the river's edge. The Department of Natural Resources or the Soil Conservation Service may be consulted for selection of native plant species. For purposes of erosion control and/or screening of existing developments within the Natural River District and where available at state nurseries, recommended planting materials will be supplied to property owners at cost from the Department of Natural Resources.

T. Recreation

Local campgrounds, picnic and recreation areas: Development of county and/or township river related recreation areas is encouraged, particularly along that portion of the Rifle Rive in Arenac County where such public facilities are generally not now available.

Such facilities, particularly campgrounds, may help provide for the long-term economic benefit of the area or simply provide day use recreation activity for area residents that may not now be available. Development of such facilities must recognize recommended setback and greenbelt requirements for public facilities.

State campgrounds: The Rifle River Campground in the Au Sable State Forest currently has approximately 40 campsites located on both sides of the river. Connecting these two campgrounds is a wooden footbridge. It is recommended that this campground be relocated away from the river to meet setback requirements, and where possible, the recommended vegetation strip should be re-established and maintained. It is further recommended that camping be limited to one side of the river. By doing so, the "wild-scenic" characteristics of this portion of the river will be re-established as well as reducing the existing and future erosion problem due to heavy human traffic.

Fishing, hunting and trapping: Fishing, hunting and trapping will be permitted in the Natural River District in accord with current state and local laws and regulations.

IT IS EMPHASIZED THAT NATURAL RIVER DESIGNATION, OR ESTABLISHMENT OF A ZONING DISTRICT ALONG THE RIVER, DOES NOT OPEN PRIVATE LANDS TO THE PUBLIC.

Fisheries management practices will be done in conformance with the character of the area and objectives of the natural river designation. Emphasis will be placed on maintaining and upgrading, when necessary, the quality cold water fisheries of the Rifle River particularly above the old M-70 bridge north of Sterling.

Boating and canoeing: Nonmotorized boating and canoeing is permitted. Local units of government (township or county) are encouraged to prohibit the use of motorized watercraft above the City of Omer. Such controls should be done in accordance with Part 801, Marine Safety, of 1994 PA 451.

Litter: In view of the special status of the Rifle River, its unique beauty and character, the Department of Natural Resources shall encourage and cooperate with private interests as well as other public agencies that have programs for river clean-up.

Recreation controls: It is recognized that recreational conflicts, misuse and overuse is occurring throughout the state, and particularly on the Rifle river. The limit of the statutory authority for controlling recreational uses of Michigan's waterways has not been clearly defined either through the judicial system or by the Michigan legislature. When the level of authority of the Department of Natural Resources is more clearly defined, the Department should initiate study of the Rifle River for such controls as necessary over the numbers, timing, location and conduct of river users.

U. Public Access Sites and Rest Areas

Mainstream: The Advisory Group feels that public access should be provided at approximately four hour intervals along the mainstream. Therefore, the following is recommended:

- The existing access near Klacking Creek may be upgraded or improved in the future.
- An access site just downstream of Old M-70 should be established.
- Canoe rest stops (with no public vehicular access) should be established: (a) south of M-55, and (b) between the proposed access site downstream of old M-70 and the City of Omer.

The proposed rest stop between Old M-70 and Omer should only be developed when it is shown the first site achieves the desired results. Coupled with a public information program and careful signing of the river area, the proposed rest stops should help reduce trespass and litter problems in the most popular canoeing portion of the river.

Existing access sites should be improved to provide a natural vegetation strip, to provide for better bank stabilization and erosion control, and to improve the aesthetics of the area better in tune with the wild-scenic river classification.

Tributaries: There are no developed public access sites on the Rifle River tributaries.

Any additional fisherman public access sites on the Rifle tributaries must be walk-in only with parking facilities at least maintaining established setbacks. These

should be located only where there are sufficient adjacent public lands so as to minimize trespass and user conflicts on privately owned lands.

To help control trespass, litter and other associated problems, water tight vault toilets and trash collection facilities at public access sites and rest areas may be located closer than the recommended setback.

V. Motorized Vehicles

Operation of all motorized vehicles except normal farm and lawn machinery other than on designated public roads or access roads to permitted uses, will be prohibited within the Natural River District.

Use of ORV's on publicly owned lands contiguous to the Natural River District shall be in conformance with guidelines and regulations of the agency administering such lands, and with state and federal noise level standards strictly enforced. (Muffler requirement of MVC – Section 708, Act 300, P.A. 1949, etc.)

W. Historic and Archaeological Sites

It is recommended the two privately owned Indian earthworks located adjacent to the Rifle River in Churchill Township be included on the National Historic Register. The Department of Natural Resources in cooperation with the Department of State, History Division and the owners, should initiate the application process for national historic designation of these sites.

The further identification, preservation and interpretation of historical and archaeological sites along the designated portion of the Rifle River and tributaries, by public agencies and local historical societies, is strongly encouraged. It is illegal to disturb or dig in a designated site without prior written consent from the appropriate state and/or federal agency.

X. Administration

Land Use Guidelines:

1. Under Part 305, zoning by local governmental units and/or the state shall be the chief means of protecting the Rifle River and its designated tributaries as a natural river.
 - a. Zoning shall be applied within the 400-foot Natural River District on both the designated mainstream and tributaries. Upon adoption of a local zoning ordinance, certified copies of maps and/or documents describing the Natural River District shall be filed with the local tax assessing officer and County Equalization Department.

In establishing true cash value of property within the Natural River District, the assessing officer shall recognize the effect of use limits established by the ordinance (Section 30511, Part 305, P.A. 451 of 1994).

Local government units are urged to adopt building setbacks, vegetation management and septic system controls for other

streams under their jurisdiction not within the natural river's designation.

2. Appeals: Under certain circumstances, strict adherence to this plan may create unreasonable hardships for the frontage owner. Such cases may be appealed to the appropriate local board for a variance. Applications for a variance shall be based on a site plan. The county health department, Soil Conservation Service, appropriate staff and field personnel of the Department of Natural Resources, and other experts should be consulted to recommend to the appeals board a course of action which will have the least degrading impact on the character of the natural river. Final determination of the variance shall be made by the local appeals board.
3. Nonconforming Uses: As stated in Section 30512, Part 305, P.A. 451 of 1994, "the lawful use of any building or structure and of any land or premise as existing and lawful at the time of enactment of a zoning ordinance or rule or an amendment thereof, may be continued although such use does not conform with the provisions of the ordinance, rule or amendment. The ordinance or rule shall provide for the completion, restoration, extension, or substitution of nonconforming uses upon such reasonable terms as may be set forth in the zoning ordinance or rule."
4. Utilities and Publicly Provided Facilities: The rules entitled "Utilities and Publicly Provided Facilities in Designated Natural River Areas" establishes the following administrative guidelines for designated natural rivers:
 - a. Procedures for the review and approval of preliminary and final plans for site or route location, construction or enlargement of utility transmission lines, publicly provided recreational facilities, access sites, highways, roads, bridges and other structures within areas subject to the Natural River Act. It also provides for review and approval for publicly developed water management projects and for the orderly development of all such facilities across or adjacent to state designated natural rivers.
 - b. Criteria upon which a decision of the department shall be based in the review and approval or rejection process of such proposals.
 - c. Mitigation measures to enhance and protect the natural qualities of the designated river systems.

Land Acquisition:

1. The state may purchase or trade lands with owner consent on the designated river and tributaries to maintain or improve the river and its environment. Efforts should be made by the appropriate public agency to

purchase key parcels for canoe rest areas, walk-in fishermen access, or to protect sensitive environmental areas.

2. Some landowners in the Natural River District may be interested in offering scenic or other easements or inserting restrictions in their deeds which serve to protect the river environment and which coincide with their property interests. The opportunity to obtain such easements or restrictions should be pursued by interested public agencies.

State Resources:

1. Overall responsibility for implementing and coordinating the natural river plan is assigned to the Region II Office of the Department of Natural Resources. The Natural Rivers Unit and the Department of Natural Resources Natural Rivers Advisory Group will act in an advisory capacity. Enforcement of water quality standards and water use regulations will be the responsibility of the Land and Water Management Division of the Department of Environmental Quality.
2. Other laws and programs reinforcing natural rivers management objectives should be utilized to the extent necessary to protect the river in implementing the management plan for the river and tributaries (see Appendix A).

Y. Management of Areas Beyond the Natural River Zone

Land use and water resources are closely related. What happens on the lands beyond the Natural River District but within the drainage area of the river, affects the river. Local units of government adjacent to the district, through their powers to influence the location, timing, and nature of development, can have a positive effect on water resources.

It is recommended that local governmental units zone adjacent to the Natural River District to maintain the integrity of the Rifle River and designated tributaries as a wild-scenic river:

1. By limiting residential development to low density single family structures or medium density cluster developments. Medium density cluster developments are recommended because it is easier to provide services and control.
2. By providing districts where industry, which may produce noise, smoke, fumes, odors, etc., will not affect the natural characteristics of the river area.
3. By providing districts for commerce where heavy traffic, parking, automobile exhaust and noise will not create environmental intrusions.

Further, it is recommended that local units of government incorporate water resource protection and/or management measures into their plans, programs and

decisions involving land use. Such measures are of particular importance when dealing with lands in the stream corridor as defined below.

A stream corridor essentially consists of lands contiguous to the stream, the alteration or development of which could potentially cause direct impact on the stream and its environment. It is a composite of:

1. Soil types with severe limitations for development.
2. Vegetation along creek banks.
3. Wetlands.
4. Slopes.
5. Flood profiles when known.

Sensitive areas involving one or more of the above facts may occur within the drainage area of the river but outside of the Natural River District itself.

Modification or development within such areas may adversely affect water resource benefits within the district or create problems requiring costly public investment to rectify.

It is recommended that local units of government consider such measures as regulating changes in surface water runoff from specific locations through use of the site plan review process, and protecting sensitive areas outside the Natural River District through use of conditional use permit procedures.

On private land adjacent to and within ¼ mile of the Natural River District, it is recommended that the local Soil Conservation Districts, local Soil Erosion and Sedimentation Control agencies, Cooperative Extension Service and the Department of Natural Resources cooperate with landowners to ensure that timber harvest, agricultural practices, housing, road building, or other land use activities are compatible with the wild-scenic designation of the river and with maintaining the water quality of the river.

APPENDIX A

PART 305 NATURAL RIVERS

324.30501 Definitions.

Sec. 30501. As used in this part:

- (a) "Free flowing" means existing or flowing in natural condition without impoundment, diversion, straightening, riprapping, or other modification.
- (b) "Natural river" means a river that has been designated by the department for inclusion in the wild, scenic, and recreational rivers system.
- (c) "River" means a flowing body of water or a portion or tributary of a flowing body of water, including streams, creeks, or impoundments and small lakes thereon.
- (d) "System" means all of those rivers or portions of rivers designated under this part.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30502 Natural river; designation; purpose; long-range plans; publicity; cooperation.

Sec. 30502. The department, in the interest of the people of the state and future generations, may designate a river or portion of a river as a natural river area for the purpose of preserving and enhancing its values for water conservation, its free flowing condition, and its fish, wildlife, boating, scenic, aesthetic, floodplain, ecologic, historic, and recreational values and uses. The area shall include adjoining or related lands as appropriate to the purposes of the designation. The department shall prepare and adopt a long-range comprehensive plan for a designated natural river area that sets forth the purposes of the designation, proposed uses of lands and waters, and management measures designed to accomplish the purposes. State land within the designated area shall be administered and managed in accordance with the plan, and state management of fisheries, streams, waters, wildlife, and boating shall take cognizance of the plan. The department shall publicize and inform private and public landowners or agencies as to the plan and its purposes, so as to encourage their cooperation in the management and use of their land in a manner consistent with the plan and the purposes of the designation. The department shall cooperate with federal agencies administering any federal program concerning natural river areas, and with any watershed council established under part 311, when such cooperation furthers the interest of the state.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30503 Qualifications for designation; categories of rivers.

Sec. 30503. A river qualifying for designation as a natural river area shall possess 1 or more of the natural or outstanding existing values cited in section 30502 and shall be permanently managed for the preservation or enhancement of such values. Categories of natural rivers shall be defined and established by the department, based on the characteristics of the waters and the adjoining lands and their uses, both as existing and as proposed, including such categories as wild, scenic, and recreational. The categories shall be specified in the designation and the long-range comprehensive plan.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30504 Land acquisition; purpose; interest acquired; consent.

Sec. 30504. The department may acquire lands or interests in lands adjacent to a designated natural river for the purpose of maintaining or improving the river and its environment in conformance with the purposes of the designation and the plan. Interests that may be acquired include, but are not limited to, easements designed to provide for preservation and to limit

development, without providing public access and use. Lands or interests in lands shall be acquired under this part only with the consent of the owner.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30505 Federal financial assistance programs; leases; expenditures; purposes.

Sec. 30505. (1) The department may administer federal financial assistance programs for natural river areas.

(2) The department may enter into a lease or agreement with any person or political subdivision to administer all or part of their lands in a natural river area.

(3) The department may expend funds for works designed to preserve and enhance the values and uses of a natural river area and for construction, management, maintenance, and administration of facilities in a natural river area conforming to the purposes of the designation, if the funds are appropriated by the legislature.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30506 Public hearings; notice.

Sec. 30506. Before designating a river as a natural river area, the department shall conduct public hearings in the county seat of any county in which a portion of the designated natural river area is located. Notices of the hearings shall be advertised at least twice, not less than 30 days before the hearing, in a newspaper having general circulation in each such county and in at least 1 newspaper having general circulation in the state and 1 newspaper published in the Upper Peninsula.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30507 Land uses; zoning; local ordinances; state rule.

Sec. 30507. After designation of a river or portion of a river as a natural river area and following the preparation of the long-range comprehensive plan, the department may determine that the uses of land along the river, except within the limits of an incorporated municipality, shall be controlled by zoning contributing to accomplishment of the purposes of this part and the natural river plan. County and township governments are encouraged to establish these zoning controls and additional controls as may be appropriate, including, but not limited to, building and subdivision controls. The department may provide advisory, planning, and cooperative assistance in the drafting of ordinances to establish these controls. If the local unit does not, within 1 year after notice from the department, have in full force and effect a zoning ordinance or interim zoning ordinance established under authority of the acts cited in section 30510, the department, on its own motion, may promulgate a zoning rule in accordance with section 30512. A zoning rule may also be promulgated if the department finds that an adopted or existing zoning ordinance fails to meet adequately guidelines consistent with this part as provided by the department and transmitted to the local units concerned, does not take full cognizance of the purposes and objectives of this part, or is not in accord with the purposes of designation of the river as established by the department.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30508 Zoning ordinance or rule; purpose.

Sec. 30508. A zoning ordinance adopted by a local unit of government or a zoning rule promulgated by the department shall provide for the protection of the river and its related land resources consistent with the preservation and enhancement of their values and the objectives set forth in section 30502. The ordinance or rule shall protect the interest of the people of the state as a whole. It shall take cognizance of the characteristics of the land and water concerned, surrounding development, and existing uses and provide for conservation of soil, water, streambed and banks, floodplains, and adjoining uplands.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30509 Zoning ordinance or rule; establishment of districts; powers; distance.

Sec. 30509. The ordinance or rule shall establish zoning districts within which such uses of land as for agriculture, forestry, recreation, residence, industry, commerce, and additional uses may be encouraged, regulated, or prohibited. It may limit or prohibit the placement of structures of any class or designate their location with relation to the water's edge, to property or subdivision lines, and to flood flows and may limit the subdivision of lands for platting purposes. It may control the location and design of highways and roads and of public utility transmission and distribution lines, except on lands or other interests in real property owned by the utility on January 1, 1971. It may prohibit or limit the cutting of trees or other vegetation, but such limits shall not apply for a distance of more than 100 feet from the river's edge. It may specifically prohibit or limit mining and drilling for oil and gas, but such limits shall not apply for a distance of more than 300 feet from the river's edge. It may contain other provisions necessary to accomplish the objectives of this part. A zoning rule promulgated by the department shall not control lands more than 400 feet from the river's edge.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30510 Local zoning ordinance; conformance with applicable law; construction.

Sec. 30510. A local unit of government, in establishing a zoning ordinance, in addition to the authority and requirements of this part, shall conform to the township zoning act, 1943 PA 184, MCL 125.271 to 125.310, or the county zoning act, 1943 PA 183, MCL 125.201 to 125.240, including, but not limited to, the variance provisions of those acts. Any conflict shall be resolved in favor of the provisions of this part. The powers granted under this part shall be liberally construed in favor of the local unit or the department exercising them, in such manner as to promote the orderly preservation or enhancement of the values of the rivers and related land resources and their use in accordance with a long-range comprehensive general plan to ensure the greatest benefit to the state as a whole.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;--Am. 2000, Act 17, Imd. Eff. Mar. 8, 2000.

324.30511 Districts; valuation for tax purposes.

Sec. 30511. Upon adoption of a zoning ordinance or rule, certified copies of the maps showing districts shall be filed with the local tax assessing officer and the state tax commission. In establishing true cash value of property within the districts zoned, the assessing officer shall take cognizance of the effect of limits on use established by the ordinance or rule.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30512 Rules; enforcement; promulgation; variance; existing use.

Sec. 30512. (1) The department shall prescribe administrative procedures and rules and provide personnel as it considers necessary for the enforcement of a zoning ordinance or rule enacted in accordance with this part. A circuit court, upon petition and a showing by the department that there exists a violation of a rule properly promulgated under this part, shall issue any necessary order to the defendant to correct the violation or to restrain the defendant from further violation of the rule.

(2) The department shall promulgate a zoning rule to implement this part. The rule shall include procedures for receiving and acting upon applications from local units of government or landowners for change of boundaries or change in permitted uses in accordance with chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. An aggrieved party may seek judicial review under chapter 6 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.301 to 24.306.

(3) A variance from a zoning rule promulgated by the department to implement this part may be applied for and granted pursuant to section 4 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.54, and the variance provisions of the zoning rule.

(4) The lawful use of any building or structure and of any land or premise as existing and lawful at the time of enactment of a zoning ordinance or rule or of an amendment of a zoning ordinance or rule may be continued although the use does not conform with the ordinance, rule, or amendment. The ordinance or rule shall provide for the completion, restoration, reconstruction, extension, or substitution of nonconforming uses upon reasonable terms as set forth in the zoning ordinance or rule.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;--Am. 2000, Act 17, Imd. Eff. Mar. 8, 2000.

324.30513 National wild and scenic river system; administration.

Sec. 30513. This part does not preclude a component of the system from becoming a part of the national wild and scenic river system under the wild and scenic rivers act, Public Law 90-542, 16 U.S.C. 1271 to 1287. The department may enter into written cooperative agreements for joint federal-state administration of rivers that may be designated under the wild and scenic rivers act.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30514 Area plans; approval; rules.

Sec. 30514. The department shall approve preliminary and final plans for site or route location, construction, or enlargement of utility transmission lines, publicly provided recreation facilities, access sites, highways, roads, bridges, or other structures and for publicly developed water management projects, within a designated natural river area, except within the limits of a city or incorporated village. The department may require any measure necessary to control damaging erosion or flow alteration during or in consequence of construction. The department shall promulgate rules concerning the approvals and requirements provided for in this section.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30515 Construction of part.

Sec. 30515. This part does not prohibit a reasonable and lawful use of any other natural resource that benefits the general welfare of the people of this state and that is not inconsistent with the purpose of this part.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

APPENDIX B
DEPARTMENT OF NATURAL RESOURCES
FISHERIES DIVISION
RIFLE RIVER NATURAL RIVER ZONING

(By authority conferred on the natural resources commission by section 13 of Act No. 231 of the Public Acts of 1970, being §281.773 of the Michigan Compiled Laws)

R 281.361 Definitions.

Rule 1. As used in these rules:

- (a) "Applicant" means a person who requests, on proper forms and pursuant to proper procedures, a zoning permit for a principal use, special use, or variance.
- (b) "Appurtenance" or "accessory building" means a structure that is incidental to a dwelling, including all of the following:
 - (i) Garages.
 - (ii) Residential storage sheds.
 - (iii) Barns and other agricultural storage or livestock structures.
 - (iv) Pump houses.
 - (v) Wells.
 - (vi) Private access roads.
 - (vii) Sanitary facilities.
 - (viii) Electrical service lines.
- (c) "Bluff" means a steep bank which rises sharply from the river's edge.
- (d) "Building inspector" means the agency or individual who is appointed by the appropriate governmental subdivision to issue building permits and to administer the provisions of Act No. 230 of the Public Acts of 1972, as amended, being §125.1501 et seq. of the Michigan Compiled Laws, and known as the state construction code act of 1972.
- (e) "Building permit" means a permit that is issued by the appropriate governmental subdivision as presently required under the provisions of Act No. 230 of the Public Acts of 1972, as amended, being §125.1501 et seq. of the Michigan Compiled Laws.
- (f) "Certificate of zoning compliance" means a standard form which is issued by the zoning administrator upon a determination that the construction and use of land and buildings and structures as provided for by a zoning permit, including the site plan, have been completed and are in compliance with the permit and site plan.
- (g) "Commission" means the natural resources commission.
- (h) "Cutting edge of the river" means the edge of a river or stream where the water velocity is such that it may cause soil or streambank erosion.
- (i) "Director" means the director of the department of natural resources.
- (j) "Family" means either of the following:
 - (i) An individual or group of 2 or more persons who are related by blood, marriage, or adoption and who, together with foster children, servants of the principal occupants, and not more than 2 additional unrelated persons, are domiciled together as a single, domestic, housekeeping unit in a dwelling unit.
 - (ii) A collective number of individuals who are domiciled together in 1 dwelling unit, whose relationship is of a continuing nontransient domestic character, and who are cooking and living as a single, nonprofit, housekeeping unit. Any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature shall not be considered a family as defined by these rules.

(k) "Filtered view of the river" means the maintenance or establishment of woody vegetation of sufficient density to screen development from the river, to provide for streambank stabilization and erosion control, to serve as an aid to the infiltration of surface runoff, and to provide cover to shade the water. The vegetation need not be so dense as to completely block the river view. "Filtered view of the river" means no clear cutting.

(l) "Floodplain" means land lying within an identified or documented 100-year floodplain line. Also see subdivision (q) of this rule.

(m) "Floodway" means the channel of a river or stream and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge a 100-year flood.

(n) "Front" means that segment of a lot or parcel abutting the river's edge of the main stream or tributary.

(o) "Front yard " means setback as provided for in R 281.367(b)(i)(D).

(p) "Home occupation" means a gainful occupation that is traditionally and historically carried on in the home as a use which is clearly incidental and secondary to the use of the home as a dwelling place.

(q) "Land that is subject to flooding" means that area of land adjoining the designated portions of a river and its tributaries which will be inundated by a flood which has a 1% chance of occurring or being exceeded in any given year as determined by detailed hydraulic studies that are acceptable to the Michigan department of natural resources or which, in the absence of such detailed floodplain studies, has a history of flooding or is delineated by approximate methods, such as United States geological survey flood-prone area maps or the federal emergency management agency's special flood hazard boundary maps.

(r) "Lot" means a continuous area or acreage of land which can be described for purposes of transfer, sale, lease, rental, or other conveyance.

(s) "Lot area" means the area inside the lot lines.

(t) "Lot, interior" means a lot of record which is located in the natural river district, but which does not have frontage on the river or its designated tributaries.

(u) "Lot of record" means a lot that actually exists in a subdivision plat as shown on the records of the county register of deeds before the effective date of these rules or a lot or parcel which is described by metes and bounds and which has been recorded at the office of the county register of deeds before the effective date of these rules.

(v) "Natural river district" means the Rifle river natural river district as described in the provisions of R 281.365.

(w) "Ordinary high watermark" means the line between the upland and bottomland which persists through successive changes in water level and below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.

(x) "Rear yard" means that yard opposite the front yard.

(y) "Reforestation" means the renewal of vegetative cover by seeding, planting, or transplanting.

(z) "River's edge" means the ordinary high watermark as used in the provisions of Act No. 346 of Public Acts of 1972, being §281.951 et seq. of the Michigan Compiled Laws, and as defined in subdivision (w) of this rule.

(aa) "Setback" means the required horizontal distance between any portion of a structure and the river's edge, measured at the structure's closest point to the river's edge.

(bb) "Single-family dwelling" means a detached building, or portion thereof, which is used exclusively for residential purposes, which is designed for, or occupied exclusively by, 1 family, and which contains housekeeping facilities.

(cc) "Soil erosion and sedimentation control enforcement agency" means the local agency that is appointed by the appropriate governmental subdivision to enforce the provisions of Act No. 347 of the Public Acts of 1972, as amended, being §282.101 et seq. of the Michigan Compiled Laws.

(dd) "Structure" means anything which is constructed, erected, or moved to or from any premises and which is located above, on, or below the ground, including buildings, roads, signs, billboards, satellite antennas and other communication structures, fences, and mobile homes. Temporary recreational facilities, including tents, camper trailers, and recreation vehicles, are not considered structures if they are used less than 30 days per year and if they are located landward of the natural vegetation strip or if the facilities are located on a campsite within a campground licensed under the provisions of Act No. 368 of the Public Acts of 1978, as amended, being §333.1101 et seq. of the Michigan Compiled Laws, if both the individual campsite and the campground were established before the effective date of these rules.

(ee) "Zoning administrator" means the administrator of these rules who is appointed by the commission.

(ff) "Zoning permit" means a standard form which is issued by the zoning administrator when it is determined that the proposed construction of buildings and structures and the proposed use of land and buildings and structures thereon are in compliance with all of the provisions of these rules.

(gg) "Zoning review board" means a group of not less than 3, nor more than 7, people which includes not less than 2 local representatives and 1 department of natural resources representative who is familiar with the local area and which is appointed by the commission to act upon requests as provided for by these rules.

History: 1992 MR 7, Eff. July 18, 1992

R 281.362 Purpose; intent; scope.

Rule 2. (1) The commission, on its own motion, to implement the intent of Act No. 231 of the Public Acts of 1970, being §281.761 et seq. of the Michigan Compiled Laws, and in the absence of local zoning to protect the Rifle river, a designated natural river, promulgates these zoning rules for the following purposes:

(a) To promote the public health, safety, and general welfare, to prevent economic and ecological damage due to misuse, unwise development patterns, overcrowding, and overuse within the natural river district, and to preserve the values of the natural river district for the benefit of present and future generations.

(b) To protect the free-flowing condition, fish, aquatic and wildlife resources, water quality, scenic and aesthetic qualities, and historical and recreational values of the Rifle river and adjoining land.

(c) To prevent flood damage due to interference with the natural floodplain characteristics by excluding developments which are vulnerable to flood damage and which may reduce the capacity of the floodway of the river to withstand flooding conditions.

(d) To provide for uses that complement the natural characteristics of the natural river system.

(e) To protect individuals from investing funds in structures that are proposed for location on lands which are unsuited for such development because of high groundwater, erosion, or vulnerability to flood damage.

(f) To achieve the goals and objectives of the Rifle river natural river plan.

(2) It is the general intent of these rules to define terms used and to regulate and restrict lot coverage and use, population distribution and density, and the size and location of all structures by the delineation of permitted uses and development standards so as to promote the purposes identified in this rule. It is further intended to provide for the administration and enforcement of these rules and to provide penalties for their violation.

(3) It is not the intent of these rules to revoke, annul, cancel, or in any way impair or interfere with existing provisions of law, ordinances, or any rules, regulations, or premises or with any private restrictions placed upon property by covenant or deed. However, where such provisions of law are less restrictive than the provisions of Act No. 231 of the Public Acts of 1970, being §281.761 et seq. of the Michigan Compiled Laws, and the rules promulgated thereunder, the provisions of Act No. 231 of the Public Acts of 1970, and the rules promulgated thereunder shall apply.

History: 1992 MR 7, Eff. July 18, 1992

R 281.363 Construction of language: severability.

Rule 3. (1) All of the following rules of construction apply to the text of these rules:

- (a) The particular shall control over the general.
- (b) In the case of any difference of meaning or implication between the text of these rules and any caption or illustration, the text shall control.
- (c) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (d) Words used in the present tense shall include the future. Words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.
- (e) A "building" or "structure" includes any part thereof.
- (f) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
- (g) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- (h) Unless the context clearly indicates the contrary, where a regulation involves 2 or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either . . . or," the conjunction shall be interpreted as follows:
 - (i) "And" indicates that all of the connected items, conditions, or provisions shall apply.
 - (ii) "Or" indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.
 - (iii) "Either . . . or" indicates that the connected items, conditions, provisions, or events shall apply singularly, but not in combination.

(i) Terms not defined in these rules shall have the meanings customarily assigned to them.

(2) In any case in which the provisions of these rules are declared by the courts to be unconstitutional or invalid, such ruling shall not affect the validity of the remaining provisions of these rules and to this end the provisions of these rules are declared to be severable.

History: 1992 MR 7, Eff. July 18, 1992

R 281.364 Lot size and area; subdivision of land; home occupations; natural vegetation strip; signs; docks; height of structures.

Rule 4. (1) Unless otherwise provided for within these rules, any lot or parcel of property created after the effective date of these rules, or amendments thereto, shall have a minimum area of 50,000 square feet and a minimum average width of 200 feet throughout the length of the lot or parcel on the Rifle river main stream, and a minimum average width of 150 feet on all other designated tributaries. The average lot width shall be based on the average of the combined widths of the front and rear lot lines.

(2) A lot that exists on the effective date of this rule, or amendment thereto, shall not be subdivided or reduced in dimension or area below the minimum requirements of these rules. Lots that are created after the effective date of this rule shall meet the minimum requirements of these rules, except as provided in subrules (3) and (4) of this rule.

(3) Proposed lots which have preliminary plat approval pursuant to the provisions of Act No. 288 of the Public Acts of 1967, as amended, being §560.101 et seq. of the Michigan Compiled Laws, but which do not meet the dimensional requirements of these rules on their effective date, shall, on final plat approval, be issued a permit subject to the requirements provided in R 281.369.

(4) Lots of record which are created before the effective date of these rules, or amendments thereto, and which do not possess sufficient land area or lot width may be used for the purposes described within these rules, subject to the requirements provided for in R 281.369.

(5) Home occupations shall conform to both of the following requirements:

(a) The use of the dwelling unit, or related structure, for the home occupation shall be clearly incidental and subordinate to its use for residential purposes. The home occupation shall not occupy more than 30% of the aboveground floor area of the dwelling unit. This requirement shall apply whether the home occupation is contained wholly within the dwelling unit or utilizes a garage.

(b) Equipment or a process shall not be used in a home occupation that is conducted in a single-family dwelling unit or its associated garage if it creates noise, vibration, glare, fumes, odors, or electrical interference that is detectable to the normal senses off the premises, and shall not be used in a home occupation that is conducted in other than a single-family dwelling unit or its associated garage if it creates noise, vibration, glare, fumes, odors, or electrical interference that is detectable to the normal senses outside the dwelling unit.

(6) Within the natural river district, not less than a 75-foot restrictive cutting belt shall be maintained on each side of the main stream of the Rifle river, and a 50-foot minimum restrictive cutting belt shall be maintained on each side of all other designated tributaries. Trees and shrubs may be pruned for a filtered view of the river, but clear cutting in the natural vegetation strip is prohibited. The natural vegetation strip is also subject to all of the following provisions:

(a) Dead, diseased, unsafe, or fallen trees and noxious plants and shrubs, including poison ivy and poison sumac, may be removed.

(b) The selected removal or trimming of trees for timber harvest, access or woodlot improvements, landscaping, public utility lines to service private single-family dwellings and other permitted uses is permitted upon approval of the zoning administrator.

(c) Camping is not permitted in the natural vegetation strip.

(7) Signs shall not be visible from the river, except:

(a) "No Trespassing" signs if the signs are not more than 1 square foot in area and are spaced a minimum of 100 feet apart.

(b) One identification sign of rustic design, associated with a canoe livery, campground, or rental cabins, which is not more than 6 square feet in area. The sign shall be for the purpose of identification of a designated watercraft landing site and shall be located at the designated landing site.

(c) Signs posted by public agencies to provide for public safety such as warning of impending dangers in the river, or to identify a public access site or campground. Such signs may need to be larger than 6 square feet in area to accomplish their designated purpose. Signs which identify a public access site or campground shall be of rustic design.

(8) Private boat docks shall be in compliance with all of the following requirements:

(a) Docks shall not be more than 4 feet in width and not more than 12 feet in length, with not more than 4 feet of the dock extending over the edge of the river.

(b) Docks shall be designed, constructed, and maintained to blend with the natural surroundings. The use of natural, native materials is encouraged.

(c) Unless provided for within these rules, only 1 dock shall be constructed per lot.

(9) Unless otherwise provided for within these rules, a structure shall not be more than 2 1/2 stories in height, not including a basement.

History: 1992 MR 7, Eff. July 18, 1992

R 281.365 Boundaries; interpretation of boundaries; filing of zoning map.

Rule 5. (1) The boundaries of the Rifle river natural river district shall be as described in these rules and as depicted on the certified Rifle river natural river zoning map. The Rifle river natural river zoning district comprises an area which is described as follows:

(a) The main stream of the Rifle river from and including Mallard pond to the northern city limits of Omer, including all channels of the mainstream, except the old channels leading into and out of Devoe lake.

(b) Gamble creek from Heath road in township 24 north, range 3 east, to Mallard pond in the Rifle river recreation area.

(c) Vaughn creek from Heath road in township 24 north, range 3 east, to its confluence with Gamble creek.

(d) Oyster creek from Oyster road in township 24 north, range 3 east, to its confluence with Mallard pond.

(e) Mayhue creek from the pond in section 28 of township 24 north, range 3 east, to its confluence with Oyster creek.

(f) Houghton creek from Heath road in township 24 north, range 3 east, to its confluence with the Rifle river.

(g) Wilkins creek from Campbell road in township 23 north, range 2 east, to its confluence with the Rifle river.

(h) Prior creek from Morrison road in township 23 north, range 3 east, to its confluence with the Rifle river.

(i) Klacking creek from its source in Foose swamp in township 23 north, range 2 east, to its confluence with the Rifle river.

(j) Little Klacking creek from its source in section 26 of township 23 north, range 2 east, to its confluence with Klacking creek.

(k) Dedrich creek from Gerald Miller road in township 22 north, range 3 east, to its confluence with the Rifle river.

(l) West branch from the outfall of Flowage lake in township 22 north, range 2 east, to its confluence with the Rifle river.

(m) North and south branches of Eddy creek from M-33 in township 21 north, range 3 east, to its confluence with the Rifle river.

(n) Silver creek from Elbow lake road in township 21 north, range 3 east, to its confluence with the Rifle river.

(o) Mansfield creek from Melita road in township 21 north, range 3 east, to its confluence with the Rifle river.

(p) Fritz creek from Fritz road in township 20 north, range 4 east, to its confluence with the Rifle river.

(q) The lands lying within 400 feet of the river's edge which are enumerated in subdivisions (a) to (p) of this subrule.

(2) Where uncertainty exists with respect to the boundaries of the district as shown on the zoning map, all of the following provisions shall apply:

(a) Boundaries that are indicated as approximately following the centerline of streets or highways shall be construed to follow the centerline.

(b) Boundaries that are indicated as approximately following lot lines shall be construed as following the lot lines.

(c) Boundaries that are indicated as approximately following city, village, township, or county boundaries lines shall be construed as following the city, village, township, or county boundary lines.

(d) Boundaries that are indicated as following railroad lines shall be construed to be midway between the right-of-way lines.

(e) Boundaries that are indicated as following shorelines shall be construed to follow the shorelines, and, in the event of change in the shorelines, shall be construed as moving with the actual shorelines. Boundaries that are indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow the centerline.

(f) Boundaries that are indicated as parallel to or extensions of features specified in subdivisions (a) to (e) of this subrule shall be so construed. Distances that are not specifically indicated on the official zoning map shall be determined by the scale of the map.

(g) Where physical or natural features that exist on the ground are at variance with those shown on the official zoning map or in other circumstances are not covered by the provisions of subdivisions (a) to (f) of this subrule, the zoning review board shall interpret the district boundaries.

(h) Insofar as a portion or all of the district may be indicated on the zoning map by a pattern which, for the sake of map clarity, does not cover public rights-of-way, it is intended that the district boundaries do extend to the center of any public right-of-way.

(3) Certified copies of the Rifle river natural river zoning map shall be filed with all of the following entities:

(a) The state tax commission.

(b) Local tax assessing officers.

(c) Township and county clerks.

(d) The natural rivers unit of the Michigan department of natural resources.

History: 1992 MR 7, Eff. July 18, 1992

R 281.366 Zoning permits; site plans; certificates of zoning compliance.

Rule 6. (1) A building or other structure shall not be erected, moved, added to, or structurally altered, and a land use shall not be commenced, without a zoning permit as specified by these rules and as issued by the zoning administrator. Permits shall not be required for exempt activities as specified in R 281.367(1). Plans that are submitted when applying for a zoning permit shall contain the necessary information for determining compliance with these rules.

(2) Concurrent with applying for a zoning permit, an applicant shall submit a site plan of the proposed development. The site plan shall include the entire area that is proposed for development. The zoning administrator, in the case of a principal use application, or the zoning review board, in the case of a special use application, shall have the authority to require adjustments in the site plan as a condition for approval to ensure that the proposed development meets all standards contained in these rules. Except as otherwise waived by the zoning administrator, in the case of a principal use application, or the zoning review board, in the case of a special use application, a site plan shall show and include all of the following, either existing or proposed:

(a) A site plan drawn to scale, with the scale indicated.

(b) Property dimensions.

(c) The size, shape, use, and location of existing and proposed buildings or improvements, including distances to adjacent property boundaries and the river's edge.

(d) Existing vegetation, including the location and type.

(e) Adjacent streets and highways.

(f) Parking areas.

- (g) Bluff heights.
 - (h) Entrances to public streets.
 - (i) A description of the building design, including proposed construction materials.
 - (j) Drainage facilities.
 - (k) The location and description of the method to dispose of sanitary wastes.
 - (l) Proposed landscaping.
 - (m) The location of footpaths.
 - (n) Signs proposed, including the size, location, and material.
 - (o) North arrow.
 - (p) Date of drawing.
 - (q) Detailed site location map.
 - (r) Any additional information deemed by the zoning administrator or zoning review board to be necessary to carry out the administrator's or board's duties. Examples of such information include the following:
 - (i) Soil types.
 - (ii) Topography.
 - (iii) Building elevations.
 - (iv) Site photographs.
 - (v) Anticipated traffic volumes.
 - (vi) Traffic circulation patterns.
 - (vii) Other pertinent site information.
- (3) A building, structure, or lot for which a zoning permit has been issued shall not be occupied, and a use for which a zoning permit has been issued shall not commence, until the zoning administrator has, after final inspection, issued a certificate of zoning compliance that certified compliance with all of the provisions of these rules. However, the issuance of a certificate of compliance shall not be construed as waiving any provision of these rules. A building that is accessory to a dwelling shall not require a separate certificate of zoning compliance, but may be included in the certificate of zoning compliance for the dwelling if shown on the site plan and if completed at the same time as the dwellings. A record of all certificates that are issued shall be kept on file in the office of the zoning administrator. Certificates of zoning compliance are for the purposes of these rules and shall not be interpreted as substitutes for certificates of occupancy that are required by local building codes.

History: 1992 MR 7, Eff. July 18, 1992

R 281.367 Land use and development standards.

Rule 7. Land uses within the natural river district are classified as exempt, principal, or special uses and are described as follows:

- (a) Exempt uses are uses which are permitted by right and which are not subject to the receipt of a zoning permit. Exempt uses include all of the following:
 - (i) Private, noncommercial recreation which does not involve permanent structures, equipment, or other devices, but which includes camping, boating, fishing, hunting, and other similar activities.
 - (ii) Reforestation and other accepted forest management practices, subject to the limitations specified in R 281.364(6)(b).
 - (iii) Agriculture, including general and specialized farming, unless the bureau of environmental protection of the Michigan department of natural resources determines that such use will significantly contribute to stream degradation.
 - (iv) The operation of licensed motor vehicles on dedicated public roads or private roads that are designed to provide access to a permitted use.

- (v) The off-road operation of emergency and public utility maintenance vehicles. The off-road operation of other motorized vehicles is prohibited in the natural vegetation strip as specified in R 281.364(6).
- (vi) Private footpaths that are constructed by the landowner of natural materials to facilitate access to permitted uses.
- (vii) Signs, subject to the provisions of R 281.364(7).
- (b) Principal uses are uses which are allowed by right, but which require the issuance of zoning permits by the zoning administrator. Principal uses include all of the following:
 - (i) Single-family dwellings, if all of the following provisions are complied with:
 - (A) Only 1 dwelling shall be permitted per lot of record.
 - (B) Each lot shall be not less than 50,000 square feet.
 - (C) A dwelling lot along the Rifle river main stream shall have a minimum average width of 200 feet throughout its length. A dwelling lot along any other designated tributary shall have a minimum average width of 150 feet throughout its length.
 - (D) Building setback for lots, including all appurtenances and accessory buildings, shall be not less than 150 feet from the ordinary high watermark on the main stream and 100 feet on all other designated tributaries. The setback may be decreased 1 foot for every 1 foot of rise in bank height to a minimum of 100 feet from the ordinary high watermark on the main stream and to a minimum of 75 feet from the ordinary high watermark on all other designated tributaries. Buildings and appurtenances shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream. Building shall not take place on land that is subject to flooding.
 - (ii) Accessory buildings that meet the setback requirements of paragraph (i) of this subdivision.
 - (iii) A private boat dock.
 - (iv) Utility lines to service private, single-family dwellings.
 - (v) Disposal fields and septic tanks, if all of the following provisions are complied with:
 - (A) The fields and tanks shall be located not less than 150 feet from the ordinary high watermark.
 - (B) A septic tank or absorption field shall not be located closer than 50 feet to any surface or subsurface drainage system that enters into the Rifle river or its designated tributaries.
 - (C) The bottom of the pit associated with an earth privy shall not be less than 4 feet above the known high groundwater table.
- (vi) Mining and extracting industries, if located not less than 300 feet from the ordinary high watermark.
- (vii) Residential single-family dwelling plats, if the minimum standards specified in paragraph (i) of this subdivision are met.
- (viii) Home occupations.
- (ix) Land alteration, such as grading, dredging, and filling of the land surface, unless the high groundwater table is within 4 feet of the existing natural land surface.
- (c) The Rifle river natural river plan and these rules recognize that certain types of residential, recreational, and commercial uses may be appropriate for the natural river district that have not been identified under the exempt and principal uses provisions of this rule. Such uses may result in intensities of development and use higher than would be anticipated under the exempt and principal uses. To ensure that such uses do not contravene the goals and objectives of the Rifle river natural river plan and these rules such uses shall be referred to as special uses and shall be subject to the review and approval of the zoning review board. Special uses and their development standards include all of the following:
 - (i) Detached rental cabins, if all of the following provisions are complied with:

(A) The number of cabins permitted shall be based on the rate of 1 cabin per 200 feet of river frontage. Clustering of rental cabins is encouraged; however, the ratio of 1 cabin per 200 feet of river frontage shall not be exceeded.

(B) Each cabin and all associated buildings, structures, or other related devices shall be set back a minimum of 200 feet from the ordinary high watermark.

(C) Fences and greenbelts may be required by the zoning review board for rental cabins that are adjacent to existing residential uses. Fencing shall be constructed of natural material. Greenbelts shall consist of plant material that is indigenous to the area or as approved by the zoning review board.

(D) Boat docks may be erected for the private use of occupants of the rental cabins and their guests. Docks shall be in compliance with the requirements of R 281.364 and both of the following provisions:

(1) Docks may be constructed at the rate of 1 dock for each permitted rental cabin.

(2) Access to a dock or docks shall be along a single designated footpath to minimize disruption of the natural vegetation strip.

(ii) Campgrounds, including tents, travel trailers, campers, and motor homes, with associated noncommercial buildings, cement pads, and utility hookups, if all of the following provisions are complied with:

(A) Campgrounds shall be constructed and maintained in accordance with all applicable state regulations.

(B) A commercial enterprise shall not be permitted to operate in the campground within the natural river district, except that a convenience goods shopping building that is not more than 1,500 square feet may be provided. The building shall not be more than 1 story in height.

(C) Each site and all associated buildings, structures, and other related devices shall be set back a minimum of 200 feet from the ordinary high watermark.

(D) Fences and greenbelts may be required by the zoning review board for campgrounds that are adjacent to existing residential uses. Fencing shall be constructed of natural material. Greenbelts shall consist of plant material that is indigenous to the area or as approved by the zoning review board.

(E) A camping site shall not have more than 4 sites per acre. Clustering of campsites is encouraged; however, the ratio of 4 sites per acre shall not be exceeded.

(F) Boat docks may be erected for the private use of the occupants of the campsites and their guests if both of the following provisions are complied with:

(1) Access to the dock or docks shall be along a single designated footpath to minimize disruption of the natural vegetation strip.

(iii) Canoe, boat, and other watercraft liveries, if all of the following provisions are complied with:

(A) Parked vehicles and off-season canoe and boat storage areas shall not be visible from the river.

(B) Boat docks may be erected at the ratio of 1 dock per 200 feet of river frontage.

(C) Other than the rental of watercraft, other commercial enterprises shall not be permitted to operate.

(D) A rental office which is associated with the operation of the livery and which does not have more than 225 square feet may be constructed. The building shall not be more than 1 story in height.

(E) Access to the dock or docks or place of river entry from the canoe or boat rental office shall be along a single designated footpath to minimize disruption of the natural vegetation strip.

History: 1992 MR 7, Eff. July 18, 1992

R 281.368 Application and approval; procedures and standards; principal uses and special uses.

Rule 8. (1) An application for a principal use shall be submitted and processed under the following procedures:

(a) An application for a principal use shall be made on an application form that is available from the zoning administrator and shall be returned to the zoning administrator. A completed application shall contain all of the following information:

- (i) A completed application form that is signed by the applicant or the applicant's representative.
- (ii) Two copies of a site plan that meets the requirements of R 281.366(2).
- (iii) Evidence of ownership or a legal interest in the property that is affected by the application for a principal use.

(b) Within 15 days of receipt of an application for a principal use, the zoning administrator shall notify the applicant of the need for additional information.

(c) Within 30 days of receipt of a completed application, the zoning administrator shall issue or deny a permit. If a permit is denied, notice of the denial, together with the reasons for the denial, shall be sent to the applicant.

(d) Concurrent with the issuance of a zoning permit, an applicant shall receive a copy of the approved site plan.

(e) Before commencing construction of a principal use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.

(f) Zoning permits are valid for 1 year and are not transferable. All buildings shall be completed within 1 year from the date of issuance of the zoning permit. However, 1 extension may be authorized by the zoning administrator, in writing, for a period of not more than 6 months if conditions pertaining to the issuance of the original permit remain unchanged. Application for an extension shall be made before permit expiration. Any subsequent extensions shall have the written approval of the zoning review board.

(2) An application for a special use permit shall be submitted and processed under the following procedures:

(a) An application for a special use permit shall be made on an application form that is available from the zoning administrator and shall be returned to the zoning administrator. A completed application shall contain all of the following information and attachments:

- (i) A completed application form that is signed by the applicant or the applicant's representative.
- (ii) Eight copies of a site plan that meets the requirements of R 281.366(2).
- (iii) Evidence of ownership or a legal interest in the property that is affected by the application for a special use.

(iv) A list of all property owners, together with their addresses, who are located within 300 feet of the applicant's property which is being considered for a special use.

(b) The application, together with the required attachments, shall be submitted not less than 30 days before the meeting of the zoning review board at which the application is to be considered.

(c) The zoning review board shall conduct at least 1 public hearing and shall require all of the following notifications of such hearing to be made not less than 5, nor more than 15, days before consideration of the special use application:

(i) One notice shall be published in a newspaper that circulates in the township in which the proposal is located.

(ii) Notice shall be sent by first-class mail or personal delivery to the owners of property for which approval is being considered and to all persons who are identified in subdivision (a)(iv) of this subrule.

(iii) Notice shall also be sent to all of the following entities:

- (A) The natural rivers unit of the Michigan department of natural resources.
- (B) Local tax assessing officials.
- (C) Township and county clerks.
- (D) Local building inspectors.

(d) In considering a special use application, the zoning review board shall require that all of the following general standards, in addition to those specific standards established for each special use in R 281.367(c), be satisfied:

- (i) That the purposes noted in R 281.362 are accomplished.
- (ii) That a compelling reason exists to locate the proposed use within the district boundaries if contiguous property under the same ownership is available outside the district.
- (iii) That the proposed use in combination with other existing uses will not be a detriment to the public health, safety, and welfare.

(e) The zoning review board may impose conditions deemed necessary to accomplish the general and specific standards applicable to the proposed use.

(f) The concurring vote of a majority of the members of the zoning review board shall be required to approve a special use.

(g) A special use that is granted by the zoning review board shall be valid for 1 year from the date of approval. If construction has not, in the opinion of the zoning review board, commenced and proceeded meaningfully at the end of the 1-year period, the zoning administrator shall notify the applicant, in writing, of the expiration of the special use approval.

(h) If it is determined by the zoning review board that the applicant has failed to comply with any of the requirements of these rules or the approval granted, the board, after a public hearing held in accordance with the provisions of subdivision (c) of this subrule, may revoke any special use approval.

(i) An application for a special use which has been denied by the zoning review board shall not be submitted for reconsideration unless, in the opinion of the zoning administrator, new and significant facts and conditions exist which might result in favorable action upon resubmission.

(j) Concurrent with the issuance of a special use permit, an applicant shall receive a copy of the approved site plan, with conditions, if any.

(k) Before commencing construction of a special use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.

History: 1992 MR 7, Eff. July 18, 1992

R 281.369 Variances and variance hearings.

Rule 9. (1) A dimensional variance from any standard established in these rules may be granted by the zoning review board after a public hearing or, in certain instances by the zoning administrator as provided in subrule (3) of this rule to allow a modification from a standard that establishes an area, yard, height, floor space, frontage, setback, or similar numerical restriction, but only after substantive evidence establishes that there are practical difficulties in carrying out the strict letter of these rules. A variance shall be permitted only when it is consistent with the general purposes and intent of these rules.

(2) The zoning review board or zoning administrator shall consider all of the following factors in determining if there are practical difficulties in carrying out the strict letter of these rules as specified in subrule (1) of this rule:

- (a) How substantial the variance is in relation to the zoning requirements.
- (b) Whether a substantial change will be affected in the character of the area or a substantial detriment created for adjoining properties.

(c) Whether the difficulty can be overcome by some feasible method other than a variance.

(d) Whether, in view of the manner in which the difficulty arose, and considering all of the factors specified in subdivisions (a) to (c) of this subrule, the interests of justice will be served by allowing the variance.

(e) Whether the plight of the landowner is due to circumstances which are unique to his or her property and which are not created by the landowner.

(f) Whether the variance may result in a material adverse effect on the environment.

(3) For the purposes of these rules, the required hearing and review of a variance request by the zoning review board shall be waived for certain minor dimensional variances of principal uses, including legal nonconforming uses. Such variances shall be handled by the zoning administrator, who shall consider the provisions of subrule (2) of this rule in making a determination. The zoning administrator shall prepare a written finding of fact that details the reasons for approval or denial of the minor variance request. Minor variances include the variances specified in the following provisions:

(a) Reductions in setbacks for uses on lawful lots that are not more than 25% of the normal dimensional requirements. Such uses shall include principal or accessory buildings or structures and any portion thereof, including additions, porches, and steps.

(b) Reductions in setbacks for uses on lawful nonconforming lots, including lots within subdivisions, that are not more than 25% of the normal dimensional requirements. Such uses shall include principal or accessory buildings or structures and any portion thereof, including additions, porches, and steps. Conditions may be imposed on an applicant before granting a variance. Such conditions shall be in writing and signed by the applicant before the applicant receives a variance.

(4) A land use variance is a land or building use in contravention of any of the use requirements of these rules. The zoning review board may, after a public hearing, grant a variance upon a finding of unnecessary hardship, which may be found upon substantial evidence being submitted that all of the following factors are found to exist:

(a) The property cannot be used in a manner that is consistent with existing zoning.

(b) The hardship results from the application of these rules to the applicant's property.

(c) The hardship of which the applicant complains is suffered by his or her property directly and is not shared by others.

(d) The hardship is not the result of the applicant's own actions.

(e) The hardship is peculiar to the applicant's own property.

(5) In determining whether reasonable use may be made of the property as zoned, a reasonable economic return may be a factor which could be considered, but only if the applicant is in compliance with the provisions of subrules (1) to (4) of this rule. Whether any weight shall be given to the economic return factor shall be dependent on a determination that the owner has been deprived of all beneficial use of his or her property under existing zoning.

(6) The zoning review board shall, after finding that unnecessary hardship exists, also find that, based on adequate evidence, the proposed use meets all of the following conditions:

(a) The use will be consistent with and in accordance with the general objectives of the Rifle river natural river plan.

(b) The use will be designed, constructed, operated, and maintained so as to be consistent with and appropriate in appearance with the existing or intended character of the natural river district and that such use will not change the essential character of the natural river district.

(c) The use will be adequately served by existing essential public facilities and services, such as highways, police and fire protection, drainage structures, refuse disposal, and sanitation facilities,

or that the persons or agencies that are responsible for the establishment of the proposed use shall be able to adequately provide any such service.

(d) The use will not involve uses, activities, processes, materials and equipment, and conditions of operation that will be detrimental to any persons, property, or the environmental quality of the district because of the excessive production of noise, smoke, fumes, glare, or odors or require the outdoor storage of raw materials or discarded materials produced in the use processes.

(e) The use will be consistent with the intent and purposes of these rules.

(f) The use or the structures to be used therefor will not cause an overcrowding of the land or an undue concentration of population that will result in degradation to the river and district.

(g) The use plot area is sufficient, appropriate, and adequate for the use and the reasonable anticipated operation and expansion thereof.

(7) Upon receipt of an application for a variance, the zoning review board shall conduct a hearing on the request, except as provided for in subrule (3) of this rule. The hearing and notice procedure shall follow that established for special use applications by the provisions of R 281.368(2)(c). A decision shall be made within 30 days after the hearing to approve or deny the variance request. The zoning review board shall keep complete and detailed records of all its proceedings, which shall include the minutes of its meetings, its findings, and actions taken on each matter heard by it, including the final order. The order shall include the legal description of the property involved. Reasons for the decision shall be stated in writing. The board shall record the vote of each member on each question. If a member is absent or fails to vote, the board shall indicate such fact. All records shall be open for public inspection. The concurring vote of a majority of the members of the zoning review board shall be necessary to effect a dimensional variance in these rules, except that a concurring vote of 2/3 of the members of the board of appeals shall be necessary to grant a land use variance permitted in these rules.

(8) The zoning review board shall not issue a land use variance when the district allows the use as a special use.

(9) The effect of any variance shall be to create a nonconforming land use or structure which shall then be subject to the terms of R 281.370, which regulates continued use.

History: 1992 MR 7, Eff. July 18, 1992

R 281.370 Nonconforming uses, lots, and structures.

Rule 10. (1) It is recognized that there exists, within the natural river district, lots, structures, and uses of land and structures which were lawful before these rules were promulgated or amended and which would be prohibited, regulated, or restricted under the terms of these rules or future amendments. It is the intent of these rules to permit legal nonconforming uses, structures, or lots to continue until they are brought into conformity and, in certain instances, to permit the limited expansion of certain legal nonconforming uses and structures.

(2) A nonconforming (substandard) lot shall be in compliance with the minimum requirements of the dimensional requirements of these rules, except as such substandard nonconforming lot may be used pursuant to the provisions of R 281.369.

(3) Where, at the effective date of these rules or amendment of these rules, a lawful use of land exists that is made unlawful under the terms of these rules as promulgated or amended, the use may be continued if it remains otherwise lawful, subject to all of the following provisions:

(a) The nonconforming use shall not be enlarged, increased, or extended to occupy a greater area of land than was occupied at the effective date of these rules or amendment of these rules, except in the case of campgrounds, canoe liveries, and rental cabins which do not meet the standards for special uses specified in R 281.367(c). Such lawful, nonconforming uses may be expanded if the increased use meets the standards for special uses specified in R 281.367(c). Expansion of a lawful, nonconforming use shall be treated as a variance pursuant to the provisions of R 281.369.

(b) The nonconforming use shall not be moved, in whole or in part, to any other portion of the lot or parcel occupied by such use at the effective date of these rules or amendment of these rules, unless the move would result in a greater degree of conformity with these rules.

(c) If the nonconforming use of land ceases for any reason for a period of 12 months, any subsequent use of the land shall conform to the requirements specified by these rules.

(4) Where a lawful structure exists at the effective date of these rules or amendment of these rules that is made unlawful under the terms of these rules as promulgated or amended, the structure may be continued if it remains lawful, subject to all of the following provisions:

(a) The structure shall not be enlarged or altered in a way which increases its nonconformity; however, when a single-family dwelling or a structure associated with a campground, canoe livery, or a rental cabin is classified as nonconforming, alterations, repairs, and additions, including accessory buildings, may be erected if the gross floor area of all such alterations, repairs, and additions, including accessory buildings, is not more than 50% of the gross floor area of the nonconforming structure, cumulative from the date of nonconformance to the date of the request if any enlargement to a lawful nonconforming structure, to the extent possible, is in compliance with all setback and other building requirements. Expansion of a lawful, nonconforming structure shall be treated as a variance pursuant to the provisions of R 281.369.

(b) If the nonconforming structure is destroyed by any means to an extent that is more than 50% of its replacement cost, restoration of the structure shall be treated as a variance pursuant to the provisions of R 281.369. In determining whether the structure has been destroyed to an extent that is more than 50% of its replacement cost, the zoning review board or zoning administrator shall use appraised replacement costs, as determined by a qualified individual who is appointed by the zoning review board or zoning administrator, and shall compare the value of the part destroyed to the value of the total operating unit where there are several structures which are used together by the landowner as a single operating unit. The request for restoration of a nonconforming structure which is destroyed to an extent that is more than 50% of its replacement value shall be approved if all of the following conditions exist:

(i) The land on which the structure is located is not subject to flooding.

(ii) The continued use of the nonconforming structure will not lead to accelerated bank erosion or other material degradation of the river resource, and the construction of the structure is approved by the local soil erosion and sedimentation control enforcement agency.

(iii) The continued use conforms with local county health codes and is approved by the local county health department.

(iv) The continued use conforms with local building codes and is approved by the local building inspector.

(v) The restoration of a damaged structure that is approved by the zoning review board or zoning administrator shall be started within 1 year from the time of the damage.

(c) The nonconforming structure shall not be moved, in whole or in part, to any other portion of the lot or parcel that is occupied by the structure at the effective date of these rules or amendment of these rules, unless the move would result in a greater degree of conformity with these rules.

History: 1992 MR 7, Eff. July 18, 1992

R 281.371 Zoning administrator and zoning review board; appointment; duties.

Rule 11. (1) The commission shall appoint a zoning administrator and zoning review board to act as its agents to enforce these rules.

(2) The zoning administrator shall do all of the following:

(a) Provide necessary forms and applications and receive and process applications.

(b) Determine and verify zoning compliance when the applicant's plans are found to conform with the provisions of these rules.

- (c) Conduct site inspections to ensure compliance with these rules.
- (d) Issue any authorized permits and certificates of zoning compliance.
- (e) Identify and record information relative to nonconformities.
- (f) Maintain files of applications, permits, and other relevant documents.
- (g) Schedule meetings and hearings for, and provide assistance to, the zoning review board.
- (h) Act on variances as permitted by the provisions of R 281.369(3).
- (3) The zoning review board shall do all of the following:
 - (a) Adopt rules of procedure that govern the transaction of its business.
 - (b) Act upon requests for special use permits.
 - (c) Act on certain dimensional and land use variances pursuant to the provisions of R 281.369.
 - (d) Act on the interpretation of the official zoning map pursuant to the provisions of R 281.365(2)(g).
- (4) In establishing the zoning review board, the commission shall cooperate with, and seek the advice of, all of the following entities:
 - (a) Affected townships and counties.
 - (b) Soil conservation districts.
 - (c) Property owners' associations.
 - (d) Other interested local organizations and citizens.
- (5) The commission shall request each affected township to appoint 1 person to represent its interest on matters within its jurisdiction. The commission shall request each affected county to appoint 2 persons to represent its interests on matters within its jurisdiction. One of the 2 persons shall be a county official who works in planning, zoning, public health, soil erosion and sedimentation control, or a related field. The commission shall request that each affected soil conservation district appoint 1 person to represent its interest on matters within its jurisdiction. Representatives who are appointed pursuant to this rule shall vote only on those matters within their respective jurisdictions. If affected townships, counties, or soil conservation districts do not appoint someone to represent them within 60 days from the request by the commission, the commission may make appointments on its own motion.
- (6) In accord with procedures specified in subrule (5) of this rule, the commission shall request that each governmental unit and organization that appoints regular members to the zoning review board also appoint 1 alternate member to represent the governmental unit or organization. The alternate member may be called to sit as a regular member in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member who is appointed shall serve in the case until a final decision has been made. An alternate member shall have the same voting rights as a regular member of the zoning review board.
- (7) The zoning review board shall hold at least 1 meeting annually for such purposes as adopting or amending rules of procedure, establishing officers, educational purposes, or to conduct any manner of business as provided for by these rules.

History: 1992 MR 7, Eff. July 18, 1992

R 281.372 Appeals; contested cases.

Rule 12. An aggrieved party who contests the decision of the zoning administrator or zoning review board shall be granted a hearing if a petition is filed with the director within 60 days after notice of disapproval is received. The hearing shall be conducted pursuant to the provisions for contested cases of Act No. 306 of the Public Acts of 1969, as amended, being §24.201 et seq. of the Michigan Compiled Laws, and R 299.3071 to R 299.3081.

History: 1992 MR 7, Eff. July 18, 1992

R 281.373 Violations; effect; remedies.

Rule 13. (1) After the effective date of these rules, a building or structure or land shall not be used or occupied, and a building or structure or part thereof shall not be erected, constructed, reconstructed, moved, or structurally altered, unless the building, structure, or land is in compliance with the provisions of these rules. A permit or variance shall not be approved, and action shall not be taken, if approval of the permit or variance or the action taken violates the provisions of these rules. The commission shall not waive any of its rights or remedies against any person who violates these rules if the violations were committed in reliance on an authorization erroneously given in violation of any provision of these rules. Any authorized permit, variance, or action that is contrary to the provisions of these rules is deemed invalid from the date of the authorization.

(2) In addition to all other remedies, the commission may institute appropriate action or proceedings to prevent, restrain, correct, or abate rule violations or threatened violations.

History: 1992 MR 7, Eff. July 18, 1992

R 281.374 Boundaries and permitted uses; changes, amendments, and supplements; precedence of local zoning ordinance over rules.

Rule 14. (1) The commission may make changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner following a hearing held pursuant to the provisions of sections 71 to 87 of Act No. 306 of the Public Acts of 1969, as amended, being §§24.271 to 24.287 of the Michigan Compiled Laws, if implementation of the change, amendment, or supplement does not contravene the purposes of these rules as specified in R 281.362.

(2) Copies of any changes, supplements to boundaries, or adopted amendments shall be sent to all of the following entities:

- (a) The county register of deeds.
- (b) Township and county clerks.
- (c) The local building inspector.
- (d) Local soil erosion and sedimentation control enforcement agencies.
- (e) The soil conservation district.

(3) Upon approval by the director, a local zoning ordinance that meets all of the requirements of Act No. 231 of the Public Acts of 1970, being §281.761 et seq. of the Michigan Compiled Laws, Act No. 184 of the Public Acts of 1943, as amended, being §125.271 et seq. of the Michigan Compiled Laws, or Act No. 183 of the Public Acts of 1943, as amended, being §125.101 et seq. of the Michigan Compiled Laws, whichever is applicable, shall take precedence over these rules. If the director withdraws his or her approval of a local zoning ordinance, or if the local ordinance becomes inapplicable to the land area encompassed by the Rifle river natural river district through court action or for any other reason, these rules shall apply.

History: 1992 MR 7, Eff. July 18, 1992

R 281.375 Rescission.

Rule 15. R 281.171 to R 281.184 of the Michigan Administrative Code, appearing on pages 121 to 132 of the 1984 annual supplement to the 1979 Michigan Administrative Code, are rescinded.

History: 1992 MR 7, Eff. July 18, 1992