

BETSIE RIVER NATURAL RIVER PLAN

BENZIE AND MANISTEE COUNTIES

JULY 1973

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Fisheries Division

MICHIGAN DEPARTMENT OF
NATURAL RESOURCES
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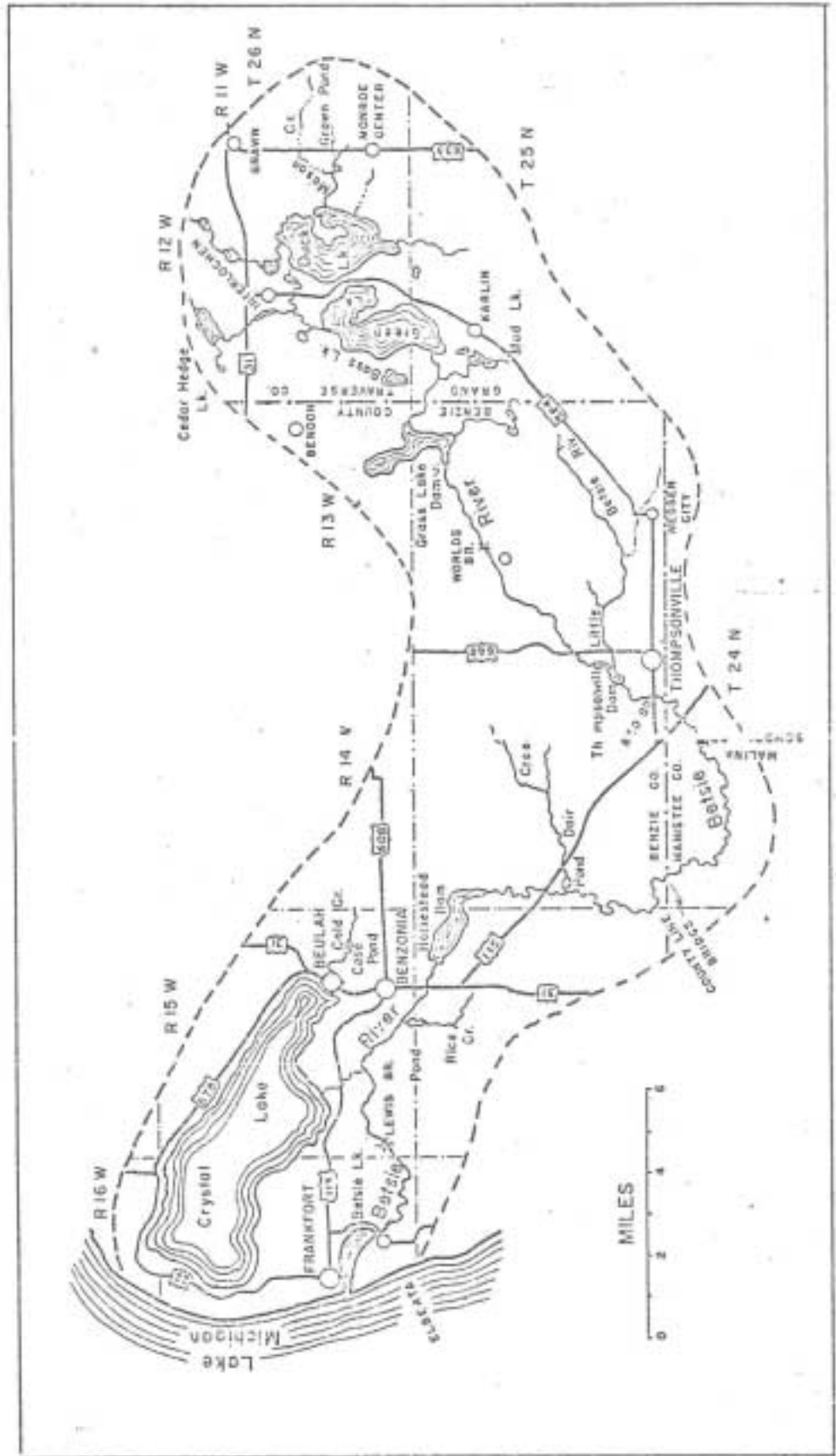
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PREFACE

The Natural Rivers Act of 1970 authorizes the Natural Resources Commission to establish a system of "natural" rivers in the state and to provide for their preservation, protection, and enhancement. As a result of this charge, the Michigan Department of Natural Resources is studying the Betsie River and its tributaries for possible inclusion in the Natural Rivers System. The river system and adjacent lands will be investigated to determine: (1) aesthetic and ecologic values, (2) free-flowing condition--now and prospectively, (3) water quality, (4) fish, plant, and wildlife resources, and (5) historic values. If the river ranks high in such values, it will be proposed for inclusion in the Michigan Natural Rivers System. A river management plan will be prepared with the participation of concerned public officials and citizens and presented to the public at hearings in the area. After public hearings, the Natural Resources Commission may designate the river or portions of it as either a Wilderness, Wild-Scenic, or Country-Scenic River.

This report contains the Natural River Plan for the Betsie River, which is proposed as a Wild-Scenic River. Briefly, the Wild-Scenic River is a stream with wood or forested borders, shorelands and/or backlands, in close proximity to man-made development. The plan (1) provides a physical description of the river, surrounding lands, and nearby structures; (2) reviews values of the river and factors affecting its future nature and use; and (3) provides a plan for its management so as to preserve, protect, and enhance the natural qualities of the river area and facilitate their best use.

BETSIE RIVER WATERSHED
BENZIE, MANISTEE & GRAND TRAVERSE COUNTIES, MICHIGAN



THE STUDY AREA

A. General Description

The Betsie River is located in Grand Traverse, Benzie and Manistee counties. The stream originates at Green Lake near the village of Interlochen and flows in a westerly direction to its outlet into Betsie Lake and Lake Michigan near Elberta and Frankfort. A large part of the river lies within the boundaries of the Fife Lake and Betsie River State Forests and flows through the Betsie River State Game Area near its mouth. The Betsie River drains a surface area of approximately 165,800 acres and includes about 93 linear miles of streams, 52 miles of which is mainstream.

Betsie Lake, located at Frankfort and at the entrance to Lake Michigan, provides important harbor facilities for the surrounding area. The harbor is used by automobile and railroad ferries as well as other commercial traffic and sport fishing craft.

The watershed and the three counties surrounding it comprise one of the most popular tourist centers in Northern Michigan. Combined annual tourist spending in Benzie, Grand Traverse and Manistee counties is estimated to be over \$8 million. Convenient access to water related activities is a major attraction. Tourism has expanded greatly in recent years with the development of the salmon-lake trout sports fishery.

Lakes, streams and forests provide recreational opportunities for fishing, boating and hunting. Lands adjacent to the lakes and streams are being developed for summer home and resort areas. The Betsie River, because of its size, volume and location, attracts fishermen, canoeists and other recreationists.

Local people, landowners, local government and other agencies have shown an outstanding interest in conservation programs. Several years ago an association of local people known as the Betsie and Platte Watershed Association was formed to promote and carry out organized watershed management on a multiple use basis. The Betsie River and Benzie County Sportsmen Clubs also have been an active and interested group. The Benzie County Board of Commissioners, Township Boards of Supervisors, Soil Conservation Service, County Planning Agencies, Extension Service, and Keep Benzie Beautiful, Inc., individually petitioned the Department of Natural Resources to consider the Betsie River as a candidate for the Natural Rivers Program. These agencies, through resolutions, pledged to assist in the planning toward protecting the Betsie River under this program. These agencies as well as other interested person have been instrumental in formulating the Betsie River Natural River Plan.

B. Physiography

The topography of the watershed is typical of the northwest lower peninsula of Michigan. Generally, the upper two-thirds of the watershed consists of gently rolling hills of low relief and sandy plains interspersed with islands of soils of heavier texture. In the lower third of the watershed the land becomes more hilly with ridges and high plateaus.

Elevation at the headwaters of the Betsie River (Green Lake) is 825 feet above sea level; the mouth at Lake Michigan is at an elevation of 580 feet.

C. Stream Characteristics

The Betsie River system is made up of 93 linear miles of streams. The headwaters consist of small lateral streams, lakes and lake outlets. The Little Betsie River and Dair Creek are the only sizable tributaries and they empty into the mainstream in its middle reaches.

Summary of Streams (Linear Length in Miles)

Stream	Trout Water	Warm Water	Total	Average Width
Betsie River	31.9	19.8	51.7	60 feet
Crystal Lake Outlet		1.2	1.2	40 feet
Cold Creek	2.0		2.0	5 feet
Rice Creek	1.7		1.7	4 feet
Dair Creek	7.9		7.9	10 feet
Little Betsie River	12.1		12.1	12 feet
Lateral Streams	<u>2.6</u>	<u>14.2</u>	<u>16.8</u>	
TOTALS	58.2	35.2	93.4	

There are 12 lakes and seven impoundments connected to the Betsie River system. These vary in size from 9.710 acres to three acres. Impoundments located on the mainstream are the Grass Lake Wildlife Flooding owned by the Department of Natural Resources and Thompsonville Dam, an old power dam is privately owned. Homestead Dam, a power generating facility formerly owned by Consumers Power has since been sold to private interests. The dam and about 8 acres immediately around the dam were given to the Department of Natural Resources, but the land rights in the impoundment area were retained by private interests.

The Michigan Water Resources Commission has established intrastate water quality standards and use designation¹ for the Betsie River. It is to be protected for recreation - total body contact (i.e., swimming); intolerant fish - cold water species; industrial water supply; agricultural and commercial water supply and other uses. Where water is to be protected for more than one use under these standards, the most restrictive individual standard of designated water use

¹ Use Designation Areas for Michigan Intrastate Water Quality Standards, published by Michigan Water Resources Commission, Surface Water Quality, Department of Environmental Quality, March, 1969.

applies. Also, if existing water quality is superior to the designated use requirements, it must be maintained at that level until it has been adequately demonstrated to the Michigan Water Resources Commission that the change in quality does not or will not become injurious to the public health, safety, or welfare, or become injurious to any other uses being made of such waters.

Studies² conducted on the Betsie River by the Surface Water Quality staff, Department of Environmental Quality, indicate that the quality of the waters within the Betsie River basin meet or exceed all criteria established by the water quality standards for the designated uses of the river. There is no known municipal or industrial waste being discharged into the Betsie River. The villages of Thompsonville and Benzonia are on septic tank-drainfield systems and Beulah disposes of its waste by land disposal methods.

The Betsie River is a marginal trout stream suffering from excessive warm water temperatures during the summer months. The headwaters of the Betsie are classified as warm water due to the influence of several connecting lakes. Cooling tendencies from spring seepage commence at Worlds Bridge and continue downstream to Thompsonville Dam while it merges with the Little Betsie River. Increased temperatures below the dam change the classification to warm water for a few miles. From Red Bridge downstream to Homestead Impoundment the waters are classed as marginal trout. From Homestead Dam downstream to the mouth the river is warm water, however, it is classed as trout due to spring and fall rainbow runs and runs of salmon in the fall.

Stream flow in the Betsie River is fairly stable having an average summer flow of roughly 50 cubic feet per second below Grass Lake Flooding and 100 C.F.S. above Homestead Dam. Spring floods normally raise stage heights from two to four feet in the upper and lower reaches, respectively.

The Betsie River has a moderate stream gradient dropping 250 feet in elevation from its outlet at Green Lake to Lake Michigan. Although some stretches have a greater gradient, the average drop in elevation is five feet per mile. The river possesses a fairly productive stream bottom. Gravel and rubble are dominant bottom types from Worlds Bridge downstream to County Line Bridge. Local areas of shifting sand and silt are common in this stretch. The lower reaches down to Homestead Dam consist mainly of shifting sand. The lower river below Homestead Dam has a dominant bottom type of shifting sand, however, there are many areas of gravel and rubble bottom in the riffle areas.

The Betsie River and its tributaries possess fairly wide flood plains. Spring floods usually spread out onto the flood plain easing damage to the stream channel. Slightly entrenched stream channels are present in local areas of the Betsie and Little Betsie. Flood plain vegetation consists of a mixture of bottomland hardwoods, cedar, hemlock and shrubs.

² Water Quality of Selected Lakes and Streams in the Grand Traverse Bay Region, published by the Michigan Water Resources Commission, Surface Water Quality, Department of Environmental Quality, March, 1970.

D. Structures for Natural Resources Management

The Soil Conservation Service and Department of Natural Resources have jointly been working on a program of streambank stabilization for the Betsie River. Three hundred fifty structures (including rock riprap, logjams, logjam deflectors, stump covers and log sod covers) have been planned for a 24-mile stretch of the Betsie River. The area in which the work is being done starts at Black Bridge (approximately one mile below the Thompsonville Dam) and continues downstream to the Crystal Lake outlet. To date 230 of these bank stabilization structures have been completed.

In addition to the bank stabilization work, the Grass Lake Dam was installed by the Wildlife Division and created a 482-acre waterfowl flooding near the headwaters of the Betsie.

E. Soils

Soils in the watershed are generally light textured, mostly sands, acidic and with low to medium fertility. Soil associations in the upper two-thirds of the watershed are Kalkaska-Rubicon sands. These are dry, loose sands, but locally contain enough silt to produce light sandy loams. Some areas are quite gravelly. In the lower third of the watershed, soils are of the Wexford-Emmet soil association. These soils are mostly sand, however, locally there are areas of red clay and gravelly soil.

F. Vegetation

Forest cover consists of sugar maple, elm, yellow birch, beech and basswood, but everywhere the forest contains a variable admixture of hemlock and white pine. In some areas there are stands of aspen and birch. In open areas or abandoned farms, plantations of red pine have been made.

Vegetation on the flood plain contains mixtures of bottomland hardwoods, cedar, hemlock and shrubs such as alder, dogwood and willow.

G. Climate

The climate in Benzie County is favorable for the summer recreationist with pleasant daytime temperatures and cool nights. Temperatures during the summer months average 5 to 10 degrees cooler than in southern lower Michigan. Prevailing westerly winds pick up moisture from Lake Michigan and as they rise over the area, release substantial amounts of rain and snow. The average annual precipitation is about 30 inches. Snowfall in the area averages about 70 inches.

H. Ownership

Ownership within the watershed consists of 35,700 acres (22.6%) state land, 115,442 acres (68.6%) private land, and the remaining 14,658 acres (8.8%) are in lakes and streams. Approximately one-half of the total area is within the boundaries of the Fife Lake and Betsie River state forests. Of the privately-owned land, about 10.5% is in cropland, 0.6% in orchard, 3.5% in pasture, 53.6% in woodland and 31.8% in open wild land, recreation and other use.

Of the 40-acre tracts having water frontage on the Betsie River and its tributaries, roughly 5,560 acres are in private ownership. State ownership is about 3,040 acres, primarily located in the upper portion of the Betsie and Little Betsie and along Dair Creek. State ownership is limited along most of the mainstream below Wallin.

Ownership of the estimated 104 miles of frontage along the mainstream from Green Lake downstream to Betsie Lake, approximately 75% is in private ownership and 25% in state ownership.

I. Accessibility

The Betsie River is accessible by improved state or county roads. US-31 crosses the Betsie in the western third of the watershed near Benzonia and M-115 angles through the central part of the watershed crossing the river twice. None of these public roads parallel the river. There are 20 road crossings from Worlds Bridge, below Grass Lake Wildlife Flooding, downstream to Betsie Lake.

EXISTING USES AND RECREATIONAL OPPORTUNITIES

A. Land Use

Land use in the watershed is about equally divided between forestry-recreation and light farming. General livestock is the most common type of farming and there are some orchards on the western side of the drainage area. The forested area contains scattered cover of northern hardwood types, but much of the area is open wild land (31,400 acres) and had little vegetative cover. There is a great deal of recreational use in the watershed including the activities of hunting, fishing, swimming, boating and camping.

B. Private Recreation and Seasonal Dwellings

A private canoe livery with 12 rental watercraft is located in Elberta and another with 15 rental watercraft is located at Red Bridge below Thompsonville. The Betsie River Trout Ranch is located just downstream from M-115 and also has a few rental canoes. A large trailer camping park lies along the north side of the river downstream from the US-31 Bridge.

There are approximately 100 buildings, visible from the river, along the entire 52 miles of the Betsie. Most of these are seasonal dwellings and in several cases are clustered developments. A cluster of homes is located at Wallin and two miles below this a subdivision is developing, however, only one home is presently built in the subdivision. Another cluster of cottages (7 to 8) exists below M-115. There are a number of overnight cabins visible from the river along the south bank of the river just upstream from US-31 while below this highway on the north side of the river many camping trailers can be seen during certain times of the year. Generally, most of the buildings are fairly well set back from the river, however, a few are within 25 feet and detract from the natural setting of the river in addition to being potential polluters.

C. Public Recreation Facilities

Camping facilities along the immediate river area are limited. Grass Lake Forest Campground, near the headwaters, offers 15 camp sites. There is one other small camping area about one-half mile below Wallin. Known as the Wallin Trail Camp, it provides overnight camping for horseback riders or hikers using the shore-to-shore hiking-riding trail.

Within a short drive of the Betsie River are two state parks (Benzie and Interlochen) and two state forest campgrounds which provide 800 campsites for recreationists in the area.

There are only two developed public access sites on the river and these are both located within two miles of US-31. Other facilities or areas of interest in the area are the Grass Lake Waterfowl Flooding, Betsie River State Game Area, Platt River State Fish Hatchery, and Sleeping Bear Dunes National Lakeshore.

D. Fishing

Lamprey control and restocking the lower Betsie with steelhead have produced anadromous runs comparable to many west Michigan streams. Steelhead runs on the Betsie, upstream to Homestead Dam, have been increasing and produce a good six-month fishery from fall through early spring. Good runs of chinook salmon, fair runs of coho and brown trout also enhance the fall fishery in the lower river. This section of the Betsie receives a good walleye run which produces a fishery from early spring to mid-summer.

Above Homestead Dam, upstream to Thompsonville Dam, a fair fishery for brown trout exists. Elimination of rough fish competition in 1965, restocking and stream improvement has gradually improved the trout fishery in this area. Above Thompsonville the fishery for browns is very marginal because of warm water temperatures. A moderate warm water fishery exists in the impoundments and on the Betsie from Grass Lake Flooding to Green Lake.

The two major tributaries, Little Betsie River and Dair Creek, have good brown trout populations in their lower reaches. The headwater areas of these streams produce a good fishery for small brook trout.

E. Wildlife Observation and Hunting

Wildlife in the Betsie River area provides many hours of recreation for the hunter, sightseer and naturalist. Whitetail deer are common the area, especially in the heavier coniferous areas along the river. Ruffed grouse and woodcock provide good hunting in the lowland brush and wooded areas along the river. Cottontail rabbits and snowshoe hares also frequent these areas. The patient observer can see beaver, muskrat, mink and other small mammals. Evidence of bank beaver is especially noticeable along the river from their skid trails up the banks and their piles of cut branches (winter food supply) near their den.

The Grass Lake Wildlife Flooding Project is a production area and a fall and spring migration stopover point for both ducks and geese, and also has a resident population of muskrats and mink. Mallards, black ducks, bluewing teal, wood ducks, coots and Canada geese are the common waterfowl species that provide hunting not only on the wildlife flooding but along the entire river. The Betsie River State Game Area along the lower reaches of the river is also a production area for ducks and Canada geese, and wetlands for beavers. A portion of the Game Area is a sanctuary and is closed to hunting. The marshes along the lower portions of the river are influenced by the level of Lake Michigan and are more productive during periods of high water. In the drier years, upland species such as deer, snowshoe hares, cottontail rabbits, snipe and rails replace some of the other wetland species.

F. Canoeing and Boating

The entire Betsie River is canoeable from Green Lake downstream, however, during low-flow periods some carries may be necessary in the upper reaches above Thompsonville. Portages are necessary at the Thompsonville and Homestead Dams. The moderate to fast current of the Betsie makes it an enjoyable stream to canoe. Although there are numerous riffle areas, none would pose a threat to the average canoeist. Some boating is done on the lower river between Betsie Lake and Homestead Dam. This section of river is large enough to handle small outboards and these craft are used mostly during the spring and steelhead season.

G. Historic and Archaeological Sites

Although Benzie and Manistee counties are rich in history, sites of historic or archaeological interest have not been authenticated.

Records in the State Archaeological Site File do not show any of these cities in the proposed Natural River District along the Betsie River. If a systematic archaeological survey were undertaken, Indian campsites along the river may be uncovered.

FUTURE USES AND POTENTIAL PROBLEMS

A. Future Uses

Outdoor recreation in a wild-scenic setting is the main attraction of the Betsie River. As more and more people migrate north to utilize their leisure time, it can be expected that the Betsie will feel the effects of increased use. More hunters, fishermen, canoeists, campers and private dwellings will eventually detract from this pleasant atmosphere.

Many areas of private land in the Natural River District are intended for land development and some are currently being developed. The potential for degrading the natural character of the river is present and will depend a great deal on how these properties are developed.

There are no water development projects presently planned by the DNR, Waterways Division. The Fish Division has funds for the removal. The Fish Division has funds for the removal of Homestead Dam, but there is no definite timetable for its removal. The Fish Division also investigated the possibility of siphoning cold water out of Green Lake, and rechanneling the river around the Grass Lake Flooding to improve water temperatures for trout; however, cost estimates indicate that this proposal is currently impractical.

B. Natural Problems

In addition to warm stream temperatures which adversely effect trout populations the most serious problem is streambank erosion. The existing 23,000 feet of serious eroding streambanks are being stabilized by a stream improvement

project. Erosion is an active force which will continue to encroach on the land. Until completely controlled, bank cutting will endanger several cottages that were built too close to the river in the past.

EXISTING AND PROPOSED LOCAL ZONING

Benzie County has a Planning Commission which is presently working on a county plan. They intend to have the plan and a tentative zoning ordinance prepared for the county by July 1, 1973.

Of the six townships in Benzie County, through which the Betsie River flows, three have comprehensive zoning ordinances and three have zoning boards presently working on zoning ordinances. Springdale Township in Manistee County does not have a zoning board or zoning ordinance.

LAWS AND PROGRAMS REINFORCING OBJECTIVES OF THE NATURAL RIVERS PROGRAM

A number of Michigan laws now authorize Department of Natural Resources' programs or activities for the protection of rivers. Officials administering the Natural Rivers Program for the protection of the Betsie River should utilize these statutes in implementing the plan objectives of the river and its tributaries. (See Appendix A)

The proposed Department of Natural Resources' program to establish rules for river use on heavily-used streams may also be directed toward protecting natural rivers-- particularly those rivers where recreational use is or may be expected to be quite heavy. The rules have been designed to protect the river resources and recreational experiences that are characteristic of a particular stream.

PRELIMINARY NATURAL RIVER PLAN

A. Proposed Designation

Development of recreation homes and homesites on the Betsie River have been increasing rapidly in recent years. The concern of local citizens and governmental units on the effect this development will have on the remaining natural portions of the Betsie prompted the six townships and others in Benzie County to petition the DNR to study the Betsie River for possible Natural River designation. It was found that although many areas of private land along the river is or will be developed in the near future, there are still many miles of stream in a natural state with scenic and other recreational values worth preserving.

It is recommended that the following portions of the Betsie Rive system be classified and managed as a wild-scenic river and be designated as a Natural River by the Natural Resources Commission under Part 305, P.A. 451 of 1994:

The 50-mile mainstream of the Betsie River from Grass Lake Dam, Benzie County downstream to its mouth at Betsie Lake, and the Thompsonville

Pond and Homestead Impoundment should be included as mainstream designation. The Little Betsie River and Dair Creek from their headwaters to their confluences with the Betsie, a total of 20 miles, should be included as tributary designation.

B. Natural River District

The Betsie River Natural River District is a strip of land 400 feet wide on each side of and parallel to the designated river and its designated tributaries. Establishment of this District on private land 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 the rights of private ownership with respect to public use. Existing structures are not affected. The District merely establishes a definable area within which certain types of development and use will be controlled. Private ownership within the Natural River District for the proposed portions of the mainstream and tributaries is estimated to be about 3,685 acres.

C. Administration

1. State Resources: Overall responsibility for implementing and coordinating the Natural River Plan is assigned to the Fisheries Division of the Department of Natural Resources. Enforcement of water quality standards and water use regulations will be the responsibility of the Water Resources Commission and other divisions of the Department of Natural Resources.
2. Other Public Properties: Agreements between the Department of Natural Resources and other public landowners such as the county will be developed as required and feasible.
3. Private Properties: Pursuant to Section 8 of the Natural Rivers Act, administration of local zoning regulations along the river will be the responsibility of the local unit of government. The Zoning Administrator shall be responsible to the Zoning Board and Zoning Appeals Board for administration of the of the local governmental unit zoning ordinance. The ordinance shall be the instrument by which the Natural River Plan is implemented. The Michigan Department of Natural Resources regional office shall be notified of any variances to the local ordinances requested for properties or activities within the Natural River District.

D. Water Quality

The existing high water quality will be maintained. The river will be monitored periodically by the Surface Water Quality staff to ensure continued maintenance of high water quality (Part 323, P.A. 451 of 1994).

E. Land Development

1. **Building Setbacks:** New buildings and appurtenances thereto in the Natural River District shall be set back at least 200 feet from the river's edge except for every foot of vertical river bank elevation greater than five feet above the normal water level the building set back may be moved five feet closer to the edge of the river ridge or escarpment until a minimum of 150 feet is reached. On designated tributaries, a minimum setback of 100 feet will be maintained. The Department of Natural Resources agrees that new structures on State land will adhere at least to minimum setback requirements or, where possible, be placed further back and out of view.
2. **Subdivisions:** Unplatted lots and new subdivisions in the Natural River District shall accommodate the setbacks as set forth in #1 above. The minimum lot width shall be 200 feet. Where, by reason of the narrowness, shallowness or shape of a lot or property, at the time of the effective date of these regulations, the lot or property cannot accommodate a building because of the required building setback, variances shall be allowed by the appropriate local board only if such reasonable terms as may be set forth in the zoning ordinance or rule are met. All such variances shall make provisions that such structures shall be so placed as to best meet the spirit and objectives of the Natural Rivers Act.
3. **Building Design and Screening:**
 - a) Property owners are encouraged to use natural materials and unobtrusive colors in the construction of new or maintenance of old buildings.
 - b) Property owners of existing buildings, visible from the river, are encouraged to screen them with native vegetation. The DNR area forester will advise on planting stock.
4. **Commercial and Industrial Structures:** No commercial or industrial structures or uses will be permitted in the 400-foot Natural River District. Local zoning should not permit commercial or industrial activities near the 400-foot district, which could unreasonably interfere with the Natural River environment.
5. **Land Fills:** Cutting, filling or building on the land in a flood plain and filling for buildings on the uplands within the 400-foot district where the highest ground water table is within six feet of the surface shall be prohibited.
6. **Stream Alteration:** To protect the natural character of the river and the natural flow of its waters, no damming, dredging, filling or channelization will be permitted in the portions of the Betsie River or tributaries designated under the Natural Rivers Act unless approved by the Department of Natural Resources. Water withdrawal for irrigation will be permitted in accordance with the riparian doctrine of reasonable use. New stream improvements for fish habitat, bank stabilization, or other resource

management practices which might alter the natural character of the stream, must be approved by the Natural Resources Commission.

7. Utilities: Gas or oil pipelines, or electric transmission lines generally shall not be permitted in the Natural River District or to cross the designated river and tributaries except on existing rights-of-way without prior written consent of the Natural Resources Commission. Plans for these transmission lines which include crossing the river district, or river and designated tributaries, must be approved by the local zoning board and the Natural Resources Commission (Part 305, P.A. 451 of 1994). New distribution lines generally shall not cross the designated portions of the river or housing setback zones unless they are placed underground. Plans for distribution lines which are to be placed under the river should be approved by the Department of Natural Resources. Local service lines to private dwellings shall originate from the landward side of the dwelling.
8. Signs: Only those signs necessary for (a) identification, (b) direction, (c) resource information, and (d) regulation of use, should be placed along public use areas of the designated river and tributaries. The Department of Natural Resources shall post signs at access sites emphasizing respect for private property rights and penalties for littering and trespassing. Signs for the sales of products or services shall be prohibited on private property in the Natural River District.
9. Docks: Docks may be constructed not to exceed four feet in width nor more than 20 feet in length with no more than four feet of the dock extending over the water. The use of "natural" materials should be encouraged.
10. Disposal of Solid Wastes shall be prohibited in the Natural River District.

F. Land Use

1. Trees and Other Vegetation: Trees, shrubs, and other vegetation will be managed to protect and enhance the river's natural values through maintenance of vegetation types native to the area.
 - a) State-owned Land: The DNR agrees that on State-owned land a 100-foot restricted cutting strip will apply on each side of the mainstream and designated tributaries. On non-designated tributaries the State Forest Management Plan will determine forest management practices within these water influence zones.
 - b) Private Land: On private frontage, a restricted cutting belt 50 feet wide will be recommended on the mainstream and on the designated tributaries (Part 305, P.A. 451 of 1994). Cutting and removal of dead, diseased, unsafe or fallen trees and noxious weeds and shrubs is permitted. Clear cutting in the natural vegetation strip is not allowed; however trees and shrubs in one

corridor may be pruned for a view of the river upon approval by the local zoning administrator and the area forester.

2. Grazing will not be permitted within these restricted cutting belts if it contributes noticeably to stream degradation. In those cases livestock will be fenced out to protect the river banks. Cattle crossings and watering areas shall be constructed so as not to cause damage to the stream.
3. Minerals: New development, exploration or production of gas, oil, salt brine, sand and gravel or other minerals except ground water are not permitted within 300 feet of the designated river or tributaries on private lands (Sec. 10, Natural Rivers Act). Natural Resources Commission policy prohibits drilling for gas or oil within 1/4 mile of streams on state land.
4. On private lands adjacent to and within one-quarter mile of the Natural River District, it is recommended that the local Soil Conservation Districts, County Extension Service and Department of Natural Resources cooperate with landowners to ensure that timber harvest, agricultural practices, housing, road building or other development, are compatible with the wild-scenic designation of the river.

G. River or River Related Activities

1. Boating and Canoeing:
 - a) To provide a natural setting for canoeists and fishermen, the use of motorized watercraft on the Betsie River will be prohibited from the M-22 Bridge at Elberta upstream, under authority of Part 801, Marine Safety, of 1994 PA 451.
 - b) Upon presentation of evidence or claims of river degradation by over-use by canoeists or fishermen, studies shall be carried out by the DNR staff to determine justification and programs for control of river users.
2. Campgrounds and Picnic Areas:
 - a) No structures incidental to a campground or picnic area shall be permitted within 200 feet of the wild-scenic designated mainstream and 100 feet of designated tributaries.
 - b) The DNR agrees that no new State campgrounds shall be permitted within 300 feet of the designated mainstream or tributaries.
 - (1) It is recommended that a canoe only campsite be established on 80 acres of state land located in T24N, R14W, Sec. 9, Manistee County. Also recommend a canoe rest stop be established on an appropriate site on state

forestland located in T25N, R14W, Sec. 25 or 36. New structures should not be visible from the river.

3. Fishing and Hunting:

- a) Fishing and hunting will continue to be permitted in the Natural River District and adjoining land areas under current laws and regulations.
- b) Emphasis will be given to maintaining the high-quality trout fishery and a quality fishing experience.
 - (1) Fish Division plans call for removal of Homestead Dam with provisions for lamprey control. Safeguards should be provided to ensure that siltation of the stream does not occur during or after dam removal. Periodic chemical treatment of rough fish may be necessary to maintain a good trout fishery. An ongoing program to survey bank erosion will be carried out in order that serious erosion problems can be corrected.
- c) Wildlife management practices if undertaken in the Natural River District will be carried out in conformance with the objectives of the Natural River designation.

H. Access and Motorized Travel

1. Public Access:

- a) Additional vehicular access will not be provided to the river except for possible fisherman walk-in access. Vehicle parking will be 300 feet back from river. New public roads, highways and river crossings will not be permitted in the Natural River District. Plans for relocations or improvements to public roads must be approved by the local zoning board and the Natural Resources Commission (Part 305, P.A. 451 of 1994). Road access to private property will be permitted upon approval of the proper zoning authority. Private road access will not be permitted within 200 feet of the mainstream or within 100 feet of designated tributaries.

2. Motor Vehicles:

- a) Licensed motor vehicles will be prohibited in the 400-foot Natural River District except for travel on existing public roads, private roads, and designated trails on publicly owned lands.
- b) Amphibious vessels, all-terrain vehicles or other off-road machines for which licenses are not required will be prohibited on publicly-owned land in the Natural River District except on such trails as may be designated. Use of snowmobiles on public lands will be permitted within the Natural river District, but it is recommended snowmobiles be prohibited in the restricted cutting strip and follow

- DNR guidelines which require at least a four inch snow depth. Use of such vehicles by a local owner on his own property is permitted.
- c) The muffler requirement of the Michigan Vehicle Code shall be enforced for all motorized vehicles using public roads and designated trails within the Natural River District (Part 315, P.A. 451 of 1994).

I. Measures for Plan Implementation

1. Property Control

- a) Zoning by local governmental units shall be the chief means of protecting the Betsie River and its designated tributaries as a Wild-Scenic River under the Natural River Plan.
1. Zoning shall be applied to the 400-foot Natural River District on both the mainstream and designated tributaries. Upon adoption of a local zoning ordinance, certified copies of maps and/or documents describing the Natural Rivers 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. (Part 305, P.A. 451 of 1994).
 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, the area forester of the DNR and other experts shall 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.
 3. Nonconforming uses: As stated 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 of 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, reconstruction, extension or substitution of nonconforming uses upon such reasonable terms as may be set forth in the zoning ordinance or rule."
- b) 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 divisions of the Department to purchase lands on or trade other lands for lands along the river as key areas are identified and as funds become available. (Sec. 30504, Part 305, P.A. 451 of 1994)

- (2) Some landowners in the Natural River District may be interested in offering scenic or other easements which coincide with their property interests. The opportunity to obtain such easements by gift or purchase should be pursued.
- c) Cooperative agreements will be developed with Federal and State agencies to support the Natural River Program by implementing policies which will provide financial assistance for practices which will protect and enhance the quality of the natural river and its tributaries, and conversely, will not provide grant assistance, loan funds or ensure mortgages for any person or contractors who develop project plans which are not in harmony with the Natural Rivers concept and plan.
- 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 its tributaries. (See Appendix A)

J. Management of Areas Beyond the Natural River District

It is recommended that local governmental units zone areas beyond the Natural River District to maintain the integrity of the Betsie River and designated tributaries as a Wild-Scenic River:

- 1. By limiting residential development to low density-single-family structures.
- 2. By providing districts where industry which may produce noise, smoke, fumes, odors, etc., will not affect the wilderness aspect of the river area.
- 3. By providing districts for commerce where heavy traffic, parking, automobile exhaust and noise will not create environmental intrusions.

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**“ALTERATION OF RIVERS” LAWS**

Construction on Streams (Act 156, 1951): Authorizes county commissioners to permit or prohibit the construction of dams or bridges on navigable streams. They can also provide for the removal of obstructions.

Construction of Dams in Streams (Act 184, 1963): Prohibits dam building on a stream or river impounding more than five acres without a permit from the Department of Natural Resources.

Inland Lakes and Streams Act of 1972 (Act 346, 1972): Authorizes the Department of Natural Resources to regulate structures, fills, dredgings and other such actions on waterfronts.

Soil Erosion and Sedimentation Control Act of 1972 (Act 347, 1972): Control of soil erosion for the identified land uses of an area to prevent sedimentation of the waters of this state.

Regulate Alteration of Floodplain and Floodways (Act 167, 1968): Authorizes the Water Resources Commission to control alteration of the water courses and the floodplains of all rivers and streams, and to prohibit the obstruction of the floodways of rivers and streams of the state.

Goemaere-Andreson Wetland Protection Act (Act 203, 1979): Authorizes the Department of Natural Resources to regulate dredging, filling, draining and other such actions to wetlands, including those contiguous to Michigan rivers (effective October 1, 1980).

RIVER USE LAWS

Marine Safety Act (Act 303, 1967): Sets forth general regulations for the use of vessels on waters of the state. Department of Natural Resources may, via hearings and adoption of rules by local governments, further regulate the use of such waters by special regulation.

Pending Canoe Registration Act: Would require registering of canoes that are intended for use in public waters of the state.

POLLUTION LAWS AND PROGRAMS

Water Resources Commission (Act 245, 1929): Commission must establish “pollution standards for waters of the state in relation to the use to which they are or may be put.” Has the authority to make regulations and issue orders and permits restricting the polluting content of discharges into state surface and ground waters. Act prohibits discharges of any substance into water which are or may become injurious to public

health, safety, welfare; domestic, commercial, industrial, agricultural, recreational or other uses of water; value or utility of riparian lands; to livestock, wild animals, birds, fish, aquatic life or plants, etc. Prohibits structures that will unduly restrict the capacity of the floodway.

Environmental Protection Act (Act 127, 1970): Allows the Attorney General, any public body, and private body or person to sue to enjoin the pollution or likely pollution of any natural resource or obtain relief with respect to such actions.

Clean Water Bonding Act (Act 76, 1968 implemented by Act 329, 1966, as amended): For sewage treatment facilities eligible for federal aid, the Water Resources Commission may grant up to 25 percent of the project cost providing that the sum of state and federal aid shall not exceed 80 percent of the project cost.

RELATED & GENERAL LAWS APPLICABLE TO NATURAL RIVERS PROGRAM

Shorelands Protection and Management Act (Act 245, 1970): The Great Lakes counterpart of the Natural River Act.

Farmland and Open Space Preservation Act (Act 116, 1974): Provides tax relief for certain property owners signing nondevelopment agreements with the state.

Subdivision Control Act (Act 288, 1967): Regulates the subdivision of land; requires that the land be suitable for building sites and public improvements, and that there be adequate drainage thereof; to control residential building development within floodplain areas, etc.

State Constitution (Act IV, s.52): Legislature must provide for the protection of natural resources.

Department of Conservation (Act 17, 1921): Department must protect and conserve the natural resources of the State of Michigan.

Natural Beauty Roads (Act 150, 1970): Such roads may be established by county road commission upon local petition. After establishment, commission may enact regulations to preserve native vegetation in the road right-of-way.

Safety Zones (Act 61, 1968): Prohibits discharge of firearms within 150 yards of an occupied dwelling.

Reckless Use of Firearms Act (Act 45, 1952):

Recreational Trespass Act (Act 323, 1976): Must have written permission to be on an individual's property, and prohibits possession or discharge of a firearm within the limits of a right-of-way on certain public roads.

RIVER PLANNING & DEVELOPMENT ORGANIZATIONS

Local River Management Act (Act 253, 1964): Authority to establish both a watershed council (like a planning or advisory board) and a river management district and board (planning a development agency).

Intermunicipality Study Committee (Act 200, 1957): Two or more municipalities may establish an intermunicipality study committee to study area problems and formulate recommendations to their governing bodies.

APPENDIX C**DEPARTMENT OF NATURAL RESOURCES
LAND AND WATER MANAGEMENT DIVISION
BETSIE 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 281.131 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 structures.
 - (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 281.137(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 Betsie river natural river district as described in the provisions of R 281.135.

(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 281.132 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 Betsie 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 Betsie 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 Betsie 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 281.133 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 281.134 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. 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 281.139.

(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 281.139.

(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 50-foot restrictive cutting belt shall be maintained on each side of the main stream of the Betsie river and its 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, or 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 20 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 281.135 Boundaries; interpretation of boundaries; filing of zoning map.

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

(a) The Betsie river from Grass lake dam in section 2, T25N, R13W, in Benzie county to its mouth at Betsie lake in section 35, T26N, R16W, including Thompsonville pond.

(b) The Little Betsie river from its headwaters in section 24, T25N, R13W, in Benzie county to its confluence with the Betsie river in section 25, T25N, R14W.

(c) Dair creek from its headwaters in section 15, T25N, R14W, in Benzie county to its confluence with the Betsie river in section 19, T25N, R14W.

(d) The lands lying within 400 feet of the river's edge which are enumerated in subdivisions (a) to (c) 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 Betsie 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 281.136 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 281.137(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 indicating 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 dwelling. 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 281.137 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 281.134(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 281.134(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 281.134(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) The dwelling lot shall have a minimum average width of 200 feet throughout its length.
 - (D) Building setback for lots, including all appurtenances and accessory buildings, shall be not less than 200 feet from the ordinary high watermark on the main stream and 100 feet on the Little Betsie river and Dair creek. The setback may be decreased 5 feet for every 1 foot of rise in bank height above 5 feet above the ordinary high watermark, to a minimum of 150 feet from the ordinary high watermark on the main stream. 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 100 feet to any surface or subsurface drainage system that enters into the Betsie 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 Betsie 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 Betsie 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 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 281.134 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) The total number of docks shall not be more than 1 dock for each 200 feet of river frontage.

(2) 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 281.138 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 281.136(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 281.136(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 281.137(c), be satisfied:
 - (i) That the purposes noted in R 281.132 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 281.139 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 of 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 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 Betsie 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 281.138(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 281.140, which regulates continued use.

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

R 281.140 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 281.139.

(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 281.137(c). Such lawful nonconforming uses may be expanded if the increased use meets the standards for special uses specified in R 281.137(c). Expansion of a lawful nonconforming use shall be treated as a variance pursuant to the provisions of R 281.139.

(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, a canoe livery, or rental cabins 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 281.139.

(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 281.139. 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 a 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) 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 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 281.141 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 281.139(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 281.139.

(d) Act on the interpretation of the official zoning map pursuant to the provisions of R 281.135(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 281.142 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 281.143 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 281.144 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 281.132.

(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 Betsie 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 281.145 Rescission.

Rule 15. R 281.31 to R 281.41 of the Michigan Administrative Code, appearing on pages 828 to 836 of the 1979 Michigan Administrative Code, are rescinded.

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