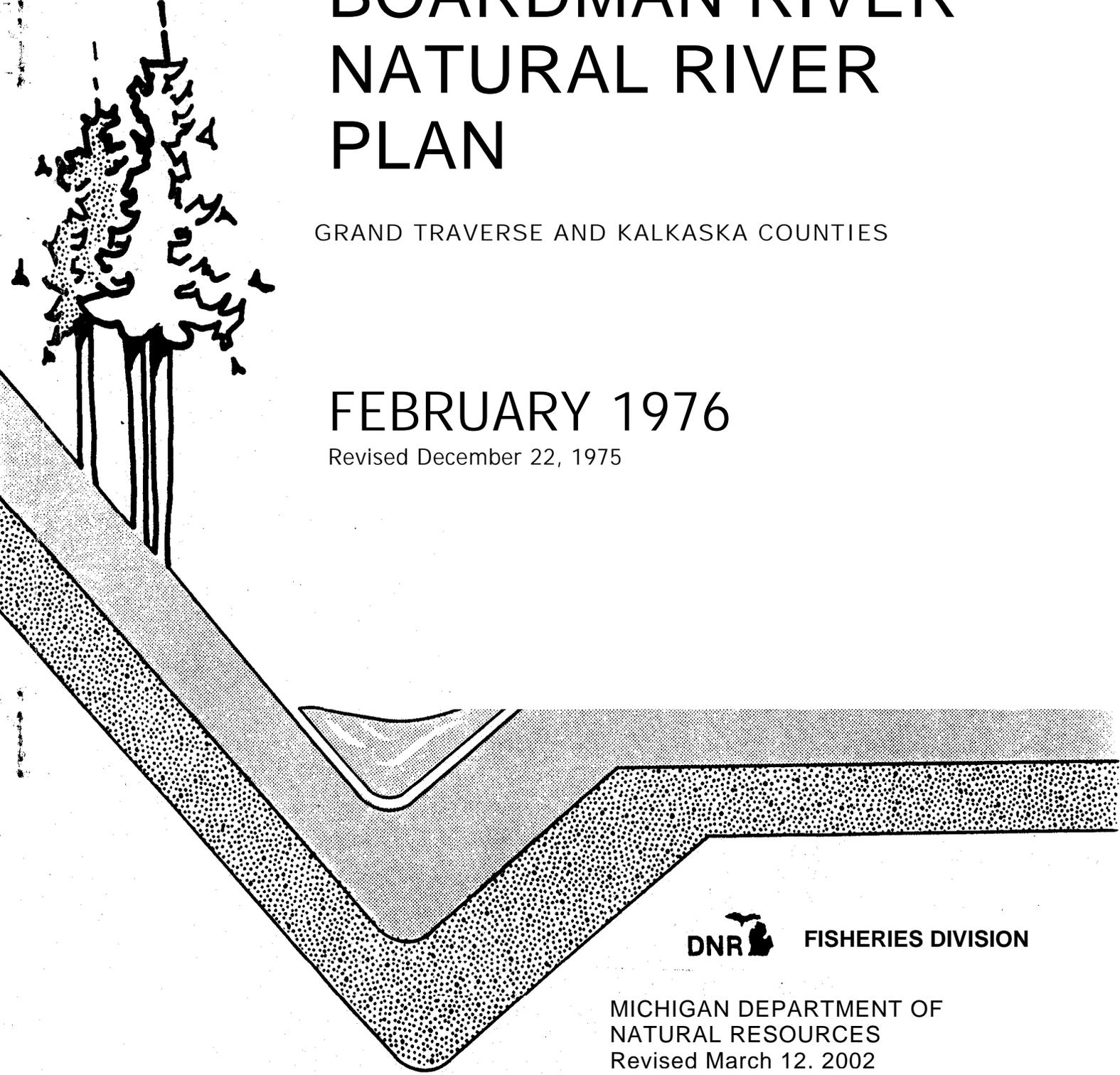


# BOARDMAN RIVER NATURAL RIVER PLAN

GRAND TRAVERSE AND KALKASKA COUNTIES

## FEBRUARY 1976

Revised December 22, 1975



**DNR**  **FISHERIES DIVISION**

MICHIGAN DEPARTMENT OF  
NATURAL RESOURCES  
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## PREFACE

The shores of Traverse Bay and the Leelanau shores of Lake Michigan, the area's remote rural quality, many high quality rivers and lakes, clean air and varied forest cover combine to be a major attraction for those in southern Michigan and bordering states to the south who seek quiet, natural beauty.

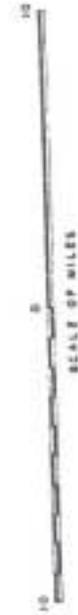
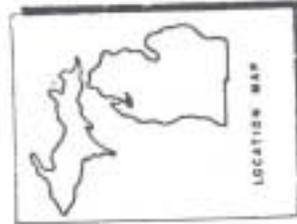
The Boardman River is a particularly outstanding feature of this region. Its main tributaries begin some 38 miles east of Traverse City, then run westerly through many miles of forested lands until the mainstream turns northward some nine miles south of Traverse City. The river discharges into Grand Traverse Bay at Traverse City. The river, once important to lumbering operations and local electric power supply, now attracts recreational use and housing.

The Boardman has excellent populations of brook and brown trout and provides countless hours of recreation for seasonal homeowners and tourists. In addition, canoeing, hunting, bird watching and just relaxing in a quiet, natural atmosphere attract many people to the area.

Vacation and retirement home developments continue to occur at a rapid rate in the Boardman River watershed and the Traverse City environs. As the demand for quality recreation and homesites increases, the natural beauty and wild character of the area could be destroyed by unregulated land use. The Michigan Department of Natural Resources, in cooperation with the Traverse Bay Regional Planning Commission, has studied the Boardman River and its many tributaries, and is recommending that it be included in the state Natural River Program with portions classified as a country-scenic river and portions as a wild-scenic river under authority of Part 305, P.A. 451 of 1994.

This report (1) provides a physical description of the river and surrounding lands; (2) reviews values of the river and factors affecting its future nature and use; and (3) provides a plan for the protection of the river's natural qualities and to guide its future use. The plan is the result of joint efforts of the Boardman River Management Plan Committee, Boardman River Advisory Council, Traverse Bay Regional Planning Commission and the Department of Natural Resources.

# BOARDMAN BASIN



U.S.G.S. GAGE  
▲ NEAR MAYFIELD

SOURCE : U.S.G.S. WATER REPORT

## THE STUDY AREA

### A. General Description

The Boardman River is located in Grand Traverse and Kalkaska counties in northwest lower Michigan. It rises in the Mahan swamp in north central Kalkaska County and flows in a southwesterly direction for 40 miles. Turning north for nine miles, it empties into Grand Traverse Bay at Traverse City. The Boardman River system drains a surface area of approximately 186,000 acres and includes about 130 linear miles of stream.

The Boardman is one of the outstanding trout streams in Michigan. This system has excellent water quality and habitat conducive to good trout reproduction. Approximately half of the streams in the river system flow through lands in public ownership.

### B. Physiography and Soils

Throughout most of the Boardman River basin, glacial deposits are in excess of 500 feet thick. Glacial features consist of moraine, outwash plain and sandy glacial lakebeds. The outer ridge of the Port Huron Moraine extends east-west across the southern third of the basin while part of the inner ridge of this moraine generally parallels the area along the northern boundary of the basin. Between these two prominent morainic ridges is a six to 14 mile wide outwash plain through which the Boardman River flows.

A large part of the flow of the river, especially during low flow conditions, is sustained by ground water discharging into the river from permeable glacial outwash soils. This outwash channel constitutes the major ground-water aquifer in the basin.

The Boardman River originates in a large swamp area at an elevation of 1090 feet above sea level and drops to an elevation of 580 feet at the west arm of Grand Traverse Bay on Lake Michigan.

The topography of the river valley is mostly flat sandy plains broken locally by small shallow depressions. Pothole bogs and swampy lands bordering stream channels comprise a small portion of the total area. However, the land along the North Branch above Kalkaska is mostly flat swampy lowlands.

The major soils in the valley areas are of the Rubicon-Grayling type and to a lesser degree Rubison-Kalkaska type. These soil types are, for the most part, dry sandy soils, acidic in nature, very pervious and low in fertility. There are local inclusions which have sandy loam surface texture, gravelly and even cobbly areas. Soils in the river bottom above Kalkaska are mainly peat and muck.

The morainic areas north and south of the river valley rise sharply to defined highland ridges and broad plateaus. The topography is generally undulating with

many ridges, sharp valleys, hills and hollows. A region of numerous water table lakes exists north of the Mayfield area.

Principal soil types in these areas are the Emmet and Roselawn which are mostly sandy loams, but in part underlain by sand and reddish clay at shallow depths. Locally there are areas of gravelly soil and scattered boulders. These soils are generally dry, acid in nature with medium to low fertility depending on the amount of sand in the composition.

### C. Stream Characteristics

The Boardman River system contains approximately 130 linear miles of streams.

#### Summary of Streams (Linear Length in Miles)

Stream			
Mainstream	26.0	Bancroft Creek	3.5
North Branch	23.5	Carpenter Creek	6.0
South Branch	10.0	Twenty-Two Creek	3.5
Hospital (Kid's) Creek	3.5	Taylor Creek	5.0
No Name Creek	2.0	Albright Creek	2.5
Beitner Creek	3.5	Crofton Creek	3.5
Jaxson Creek	5.5	Failing Creek	3.0
Swainston Creek	5.0	Vipond Creek	2.5
Jackson Creek	5.0	Palmer Creek	1.5
East Creek	3.5	Hauerstein Creek	1.5
Parker Creek	1.5	Misc. Laterals	<u>8.5</u>
		TOTAL	130.0

Twelve lakes ranging in size from a few acres to 60 acres drain into the Boardman River. Although the warmer waters from these lake outlets influence water temperatures for a short distance downstream, spring seepage soon cools the water sufficiently to support a variety of cold water fish species. The mainstream flows through three hydro-electric power ponds and Boardman Lake (340 acres) which elevates water temperatures, especially in the lower eight miles of river. Brown Bridge Pond (182 acres) is presently owned by Traverse City and is the only one of the three hydro dams that still produces power. This dam produces about 300,000,000 KWH of power per year. Grand Traverse County owns Boardman (95 acres) and Sabin (25 acres) ponds. In addition to these larger impoundments, there are still millponds on the North Branch at Kalkaska, on the South Branch at South Boardman and on Swainston Creek at Mayfield.

The Michigan Water Resources Commission has established by administrative rule intrastate water quality standards and use designations<sup>1</sup> for the Boardman 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 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.

Studies<sup>2</sup> conducted on the Boardman River by the Land and Water Management staff, Department of Environmental Quality, indicate that the quality of the waters within the Boardman River basin meet or exceed all standards, as mentioned above, established for the river. The villages of South Boardman and Mayfield are on septic tank-drainfield systems and Kalkaska disposes of its waste by land disposal methods. Traverse City operates a highly efficient wastewater treatment plant. Secondary treatment of wastes removes greater than 80 percent (and up to 90 percent) of the phosphorous before the effluent is discharged into the Boardman just below Boardman Lake.

Except for the impoundments on the mainstream (classed as top quality warmwater), the river above Boardman Pond to "the forks" is classified as top quality trout water. The North and South branches and most of the tributaries are classified as top quality trout tributaries.

Stream flow in the Boardman River is fairly stable, especially during low flow periods, as it is sustained by ground water discharging to the river from the permeable glacial soils. U.S. Geological Survey records taken during the last 22 years show an average daily discharge of 192 cubic feet per second. Although extremes were recorded during this period (maximum-1200 CFS, minimum - 50 CFS), an average minimum flow for the summer months is about 130 cubic feet per second. Spring flows normally raise the stage heights from two to four feet in the upper and lower reaches, respectively.

The Boardman River has a moderately fast stream gradient dropping 500 feet in elevation from its source north east of Kalkaska to Lake Michigan. Although the five dams from Kalkaska to Boardman Lake dissipate about 110 feet of fall, the average drop in elevation over this 50 miles of stream is eight feet per mile.

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

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

The river system is conducive to cold water fish species having a cold, clear water supply, productive bottom for food organisms, suitable escape cover and spawning habitat. Gravel, rubble, stable sand with areas of silt are dominant bottom types. Occasional areas of clay and hardpan are interspersed throughout the stream. Areas in the headwaters may run heavier to stable sands and silt, while the lower mainstream has areas of shifting sand.

Trout cover is adequate throughout most of the river system in the form of overhanging alders, logs, under cut banks and pools. Pools in the headwaters and most tributaries vary from 18 inches to three feet in depth while in the lower portions of the mainstream they are three to six feet in depth.

#### D. Vegetation

The watershed of the Boardman River contains a wide variety of timber cover which can be broken down into large general types which are most predominate.

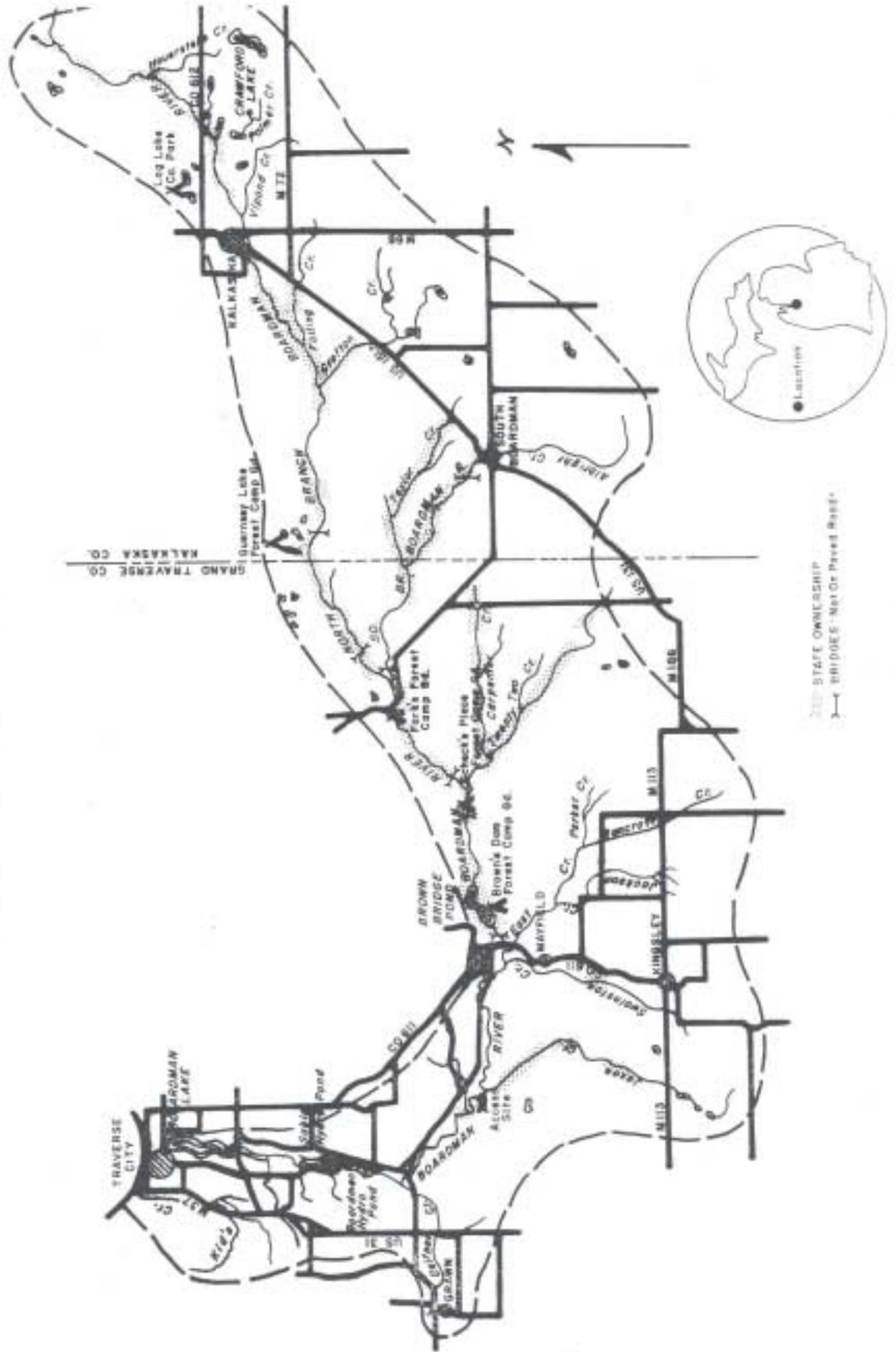
Areas immediate to the river contain tag alder, willows and dogwood with varying mixtures of cedar, balsam, hemlock, tamarack, aspen and white birch. This area of timber is very narrow; the Boardman River does not have the large flats that are so common on the Manistee River.

Upland areas adjacent to the immediate river areas contain red oak, red maple, aspen and jack pine with large white pines and red pine scattered throughout both the upland and lowland areas.

#### E. Climate

The climate in the Boardman River watershed is favorable for the summer recreationist with pleasant daytime temperatures and cool nights. Temperatures during the summer months average five degrees cooler than in southern lower Michigan. Lake Michigan and Grand Traverse Bay modifies the climate to create these generally cooler summers and milder winters. The area has an average annual precipitation of about 31 inches. Average annual snowfall is 73 inches at Traverse City and nearly 110 inches in northern Kalkaska County. The average annual temperature is 45 degrees with the highest monthly maximum temperature occurring in July (70 degrees F) and the lowest monthly maximum temperature occurring in February (22 degrees F).

# BOARDMAN RIVER SYSTEM



## F. Ownership

The Boardman River watershed contains roughly 186,000 acres of land. Of this total, 139,400 acres (75 percent) are in private ownership. The remaining 46,600 acres are in state ownership within the boundaries of the Fife Lake (25,140 acres) and Kalkaska (21,460 acres) state forests.

Ownership along the Boardman River and those tributaries selected for possible designation in the Natural Rivers Program are summarized as follows:

### Ownership -- Boardman River System

Stream	Private		State	
	Est. Linear Miles	Frontage	Est. Linear Miles	Frontage
Mainstream (Brown Bridge Down)	12.00	24.00	1.00	2.00
Mainstream (Brown Bridge to Forks)	3.00	6.00	5.00	10.00
North Branch	4.50	9.00	10.50	21.00
South Branch	4.00	8.00	4.00	8.00
Beitner Creek	2.50	5.00	1.00	2.00
Jaxson Creek	2.00	4.00	2.50	5.00
Swainston Creek	4.00	8.00	1.00	2.00
Jackson Creek	5.00	10.00		
East Creek	3.50	7.00		
Parker Creek	1.50	3.00		
Bancroft Creek	3.50	7.00		
Carpenter Creek	1.50	3.00	4.50	9.00
Twenty-Two Creek	.25	.50	3.25	6.50
Taylor Creek	.25	.50	4.25	8.50
Crofton Creek	.25	.50	1.75	3.50
Failing Creek	<u>.25</u>	<u>.50</u>	<u>1.25</u>	<u>2.50</u>
<b>TOTALS</b>	<b>48.00</b>	<b>96.00</b>	<b>40.00</b>	<b>80.00</b>
	<b>(54%)</b>		<b>(46%)</b>	

## G. Accessibility

Highway access to the Boardman River is good with a number of highways connecting the area to the population areas of southern Michigan. M-113 runs through the southern portion of the watershed in an east-west direction and connects M-37 on the west to US-131 on the east. M-37 and US-31 enter the very western part of the watershed about seven miles south of Traverse City. US-131 bisects the eastern part of the watershed from South Boardman to Kalkaska. M-72 enters the northeast part of the area at Kalkaska and connects US-131 with I-75 at Grayling. These major highways are connected by several county black top roads, however, there are large areas in the upper two-thirds of the watershed that are served only by sand-gravel roads and sand trails.

## EXISTING USES AND RECREATIONAL OPPORTUNITIES

### A. Land Use

The glaciated topography and sandy soils of the Boardman River watershed limit agricultural activities. Where soils are more productive and slopes are more gentle as in the southern portion of the watershed, a fair degree of success has been had with dairy farming. Abandonment of non-productive farms in the northern part of the state has been a major trend of long standing, however, many farms, especially in Kalkaska County, have been re-established as tree farms supplying a substantial share of the nation's Christmas trees.

By far the greatest land uses in the watershed are forestry and recreation. Recently, oil and gas explorations and production, sweeping across the north country, have made discoveries in the Boardman River Valley. Hunting, fishing and other resort activities account for a large part of the land utilization in the area. Seasonal and permanent dwellings are fairly abundant and are concentrated along or near lakes and streams. The growing demand for recreational lands in recent years is one of the reasons for a higher proportion of private land retention in the watershed.

Numerous developments are visible from the river, but a substantial amount of this is confined to the mainstream below Brown Bridge Dam. Except for Ranch Rudolph and a few cottages near the "Forks", few developments are visible from the river in the headwater areas. Some development and an occasional farm may be seen from some of the tributaries in the southern part of the watershed.

The area between Brown Bridge and Sabin Pond includes over 80 dwellings (including 12 mobile homes). Although the majority of these are seasonal, a portion are year-around homes. In addition to the buildings, there are 18 access bridges crossing the river. Most of these are foot bridges. However, several have been built to give the property owner vehicular access to his property or hunting grounds on the other side of the river.

### B. Private Recreation Facilities

Private campgrounds provide 638 campsites to the camping enthusiast in the two county area encompassing the watershed. Ranch Rudolph, located on the Boardman above Scheck's Place Forest Campground, offers a full range of recreation activities from canoe trips to horseback riding. Other recreation activities provided by private sources include charter boats for fishing on the Great Lakes.

### C. Public Recreation Facilities

Camping facilities along the immediate river area are limited. Brown's Dam, Scheck's Place and Fork's Forest Campgrounds offer about 35 campsites. Interlochen and Traverse City state parks and six other state forest campgrounds

within a short distance of the river offer additional camping opportunities. In addition, there are seven county, township or municipal parks near the watershed each providing some camping and day use facilities for recreationists.

Only one public access site is located on the river. However, access is provided at the three campgrounds from Brown Bridge Pond up to the Forks. Additional access to the stream for fishermen is provided over state lands in the upper reaches of the river and at selected county road bridges.

Other public facilities or areas of interest in the vicinity are the Sand Lakes Quiet Area; Shore-to-Shore Horseback Riding Trail, which crosses the river near Scheck's Place; Platt River State Fish Hatchery; Sleeping Bear Dunes National Lakeshore; and the Petobego State Game Area.

#### D. Fishing

As a trout stream, the Boardman ranks among Michigan's top ten streams. Above Brown Bridge Dam, the Boardman River is a top quality, moderate size trout stream flowing through the Fife Lake State Forest. It contains excellent populations of small to moderate size brook and brown trout. Brown trout in the 10 to 13 inch size range are abundant. Considerable public ownership and scenic terrain make the stream a pleasant one to fish. The bottom is firm sand and gravel and the stream is relatively swift.

Below Brown Bridge Dam, the stream widens but it still has a rapid flow over a gravel and sand bottom. Brown trout dominate the fish population. Their numbers are somewhat less than their food supply will support as natural reproduction is impaired by Brown Bridge Dam. The Boardman is still a fine trout stream, however, all the way down to the Boardman Hydro Pond.

Were it not for Boardman Dam, Sabin Dam and a few other minor obstacles in the lower Boardman, the river between Brown Bridge Dam and its mouth would, without a doubt, be one of Michigan's finest steelhead and salmon streams. Its size, physical characteristics and water quality compare favorably with the Little Manistee River. However, removal of the dams would affect the County Education Reserve property. The county property, including the Boardman and Sabin dams and their impoundments, were dedicated by Grand Traverse County as a Natural Education Reserve due to its unique combination of soils, water, topography, forest cover and wildlife in relation to its accessibility to the population center of Traverse City.

The lower part of the river within the confines of Traverse City suffers from municipal development, but still receives substantial runs of steelhead, lake trout and salmon seasonally upstream to the 6<sup>th</sup> Street Dam. The impoundments on the river, particularly Brown Bridge Pond and Boardman Lake (which is actually a natural lake), support typical warmwater game fish populations.

Nearly all of the Boardman's numerous tributaries are top quality trout waters and important nursery streams, with the more sizeable ones supporting considerable trout fishing of their own.

#### E. Wildlife Observation and Hunting

The Boardman River valley and surrounding uplands contain a good variety and sizeable populations of deer, small game, fur-bearing animals, waterfowl and a great many species of non-game wildlife.

Major game species in the area include whitetail deer, squirrels (both black and gray and fox squirrels), cottontail rabbits, snowshoe hare, ruffed grouse, many species of waterfowl and shorebirds. The mute swans found in the Traverse Bay area are a particular attraction for bird watchers. The bay area and Boardman River are the only major wintering areas in Michigan for the nonnative swan.

Fur-bearing species found in the area include muskrats, mink, raccoon, beaver, otter and fox. Coyotes, bobcats and possibly an occasional black bear also found in the watershed.

A survey conducted in Grand Traverse County in 1970 indicated there were roughly 45,000 hunter days spent on deer hunting and a like amount of time on the pursuit of small game. Roughly 4,500 hunter days were spent hunting waterfowl.

#### F. Canoeing and Boating

The north and south branches of the river above the "Forks" consist of narrow channels, shallow riffles, overhanging brush and fallen trees which make these streams undesirable for recreational canoeing.

The mainstream of the Boardman from the "Forks" downstream to Boardman Lake, a distance of about 25 miles, provides a full day trip. The moderate to fast current of the Boardman makes this an enjoyable stretch to traverse by canoe. Portages are necessary at Brown Bridge, Boardman and Sabin hydro dams. Any one wishing to continue a trip through Boardman Lake to the mouth of the river at Traverse Bay must portage the water control dam at Boardman Lake.

The river is not large or consistently deep enough for boating. Therefore, this activity is restricted to the three impoundments, Boardman Lake, and the extreme lower reach of the river at Traverse City.

#### G. Historic and Archaeological Sites

Although Grand Traverse and Kalkaska counties are rich in Indian and European history, sites of historic or archaeological interest have seldom been authenticated. State archaeological site files do not show original settlements or camps in the proposed natural river area along the Boardman River. If a

systematic archaeological survey were to be undertaken, numerous Indian campsites along the river would undoubtedly be uncovered.

## PRELIMINARY NATURAL RIVER PLAN

The Boardman River is one of the outstanding trout streams in Michigan. This river system has excellent water quality and habitat conducive to good trout reproduction. Approximately half of the streams in the river system flow through lands in public ownership. Vacation and retirement home development continues to occur at a rapid rate in the Boardman River watershed and the Traverse City area. As the demand for quality recreation and homesites increases, the natural beauty and wild character of the area could be destroyed by unregulated land use. Because of this concern, the Boardman River Management Plan Committee, under the auspices of the Boardman River Advisory Council and the Department of Natural Resources, and sponsored by the Traverse Bay Regional Planning Commission, has been meeting since July, 1974, to draft a plan to regulate future development and use for the protection of the natural character of this attractive river.

### A. Goal

To preserve, protect and enhance the river environment in a natural condition for the use and enjoyment of present and future generations.

### B. Objective

1. To maintain or improve water quality consistent with the Water Resources Commission designated classification of the river and adhere to the concept of non-degradation of water quality.
2. Discourage development or activity which may damage the ecologic, aesthetic or historic values of the river and adjacent lands.
3. Encourage any future development to be done in an orderly manner consistent with the natural environment.
4. Maintain the existing free-flowing conditions and seek to stabilize or improve the water flow characteristics for the purpose of preserving the natural environment.

### C. Proposed Designation

It is recommended that the following portions of the Boardman River system be classified and managed as a natural river under Part 305, P.A. 451 of 1994: (approximate mileage—mainstream-21 miles, tributaries-67 miles)

#### 1. Country-Scenic

Mainstream of Boardman River from north boundary of Grand Traverse County property in Section 27, T27N, R11W, Garfield Township to Brown Bridge Dam, Section 15, T26N, R10W, East Bay Township (13 miles).

## 2. Wild-Scenic

Mainstream Boardman River above Brown Bridge Dam to “Forks” (8 miles).

Tributaries:

- (a) North Branch from “Forks” to U.S. 131 in Kalkaska County (15 miles).
- (b) South Branch from “Forks” to U.S. 131 in Kalkaska County (8 miles).
- (c) Beitner Creek to Sawyer Road in Section 8, and south to southline of Section 9, T26N, R11W, Blair Township (3.5 miles).
- (d) Jaxson Creek to southline Section 31, T36N, R10W, Paradise Township (4.5 miles).
- (e) Swainston Creek to westline Section 8, T25N, R10W, Paradise Township (5 miles).
- (f) Jackson Creek to Wood Road, Section 14, T25N, R10W, Paradise Township (5 miles).
- (g) East Creek to Bancroft and Parker Creeks, Section 36, T26N, R10W, Paradise Township (3.5 miles).
- (h) Parker Creek to east-west centerline of Section 31, T26N, R9W, Union Township (1.5 miles).
- (i) Bancroft Creek to Sparling Road, Section 7, T25N, R9W, Fife Lake Township (3.5 miles).
- (j) Carpenter Creek to County Road 660, Section 13, T26N, R9@, Union Township (6 miles).
- (k) Twenty Two Creek to eastline of Section 27, T26N, R9W, Union Township (3.5 miles).
- (l) Taylor Creek to U.S. 131, Section 2, T26N, R8W, Boardman Township (4.5 miles).
- (m) Crofton Creek to U.S. 131, Section 2, T26N, R8W, Boardman Township (2 miles).
- (n) Failing Creek to U.S. 131, Section 30, T27N, R7W, Kalkaska Township (1.5 miles).

## D. Natural River District

The Boardman River Natural River District includes an area 400 feet wide on each side of and parallel to the designated river and its designated tributaries. This district merely establishes a definable area within which local zoning may regulate future development and use. Establishment of this district on private land in no way implies a “taking” of these lands by the state or opening them to public use. Private lands remain private and are subject to the rights of private ownership with respect to public use.

E. Water Quality

The existing high water quality will be maintained according to the quality standards and use designations established by the Water Resources Commission. The river will be monitored periodically by Surface Water Quality Division to ensure continued maintenance of high water quality (Part 31, P.A. 451 of 1994).

F. Land Development

1. Building Setbacks

New residential buildings on private lands shall be limited to single family dwellings. Setbacks from the river's edge for new structures and appurtenances, including state lands are as follows:

- (a) Country-Scenic Zone
  - Mainstream – 100 feet or more
  - State Land – 100 feet or more
  
- (b) Wild-Scenic Zone
  - Mainstream – 150 feet or more
  - Tributaries – 100 feet or more
  - State Land – 200 feet or more

Where by reason of the narrowness, shallowness or shape of a lot or piece of 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 or lot width, landowners facing hardship caused by these restrictions may appeal their case to the appropriate local appeals board. Special exceptions or variances may be allowed upon such reasonable terms, such as utilization of vegetative strip, screening, etc., as the board of appeals deems necessary to carry out the objective of the natural rivers zoning.

2. Subdivisions

Unplatted lots and new subdivisions in the Natural River District shall accommodate the building setbacks set forth in the plan and have a minimum lot size of 200 feet in width x 200 feet deep.

3. Industrial and Commercial Structures and Uses

Industrial and commercial buildings and uses are not permitted within 400 feet of the designated portions of the mainstream or tributaries, except forest plantations and agricultural crop farms.

4. Septic Tank Systems

Septic tanks and absorption fields shall be located at least 100 feet from the water's edge and the bottom of the absorption field shall meet health department requirements, but in no case be less than four feet above the high water table.

5. Land Fills or Earth Removal  
No ponds shall be constructed, nor earth moved, surface soils removed or filled for building within the managed vegetative strip.
6. Stream Alteration  
To protect the natural character of the Boardman River and the natural flow of its waters, no damming, dredging, filling or channelization of the stream channel will be permitted until reviewed by the local zoning board and as approved by the Department of Natural Resources under authority of Part 301, P.A. 451 of 1994.

Improvements for fish habitat, bank stabilization or other resource management practices which may alter the existing natural character of the stream are encouraged to be designed to look as natural as possible. Approval of such improvements by permit must be obtained from the Department of Natural Resources.

To remove trees fallen across the river, the property owner's consent should first be obtained. To perform extensive removal of log material from the bottom, permission must be obtained from the Department of Natural Resources District fish biologist.

7. Utilities

New 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 Natural Resources Commission (Secs. 30509 and 30514, Part 305, P.A. 451 of 1994). New distribution lines within the housing setback zones shall be placed underground unless overhead lines are less disruptive to the environment. Plans for distribution lines which are to be placed under the river shall be approved by the Department of Natural Resources and all construction shall meet the requirements under the State Soil Erosion and Sedimentation Control Act and Inland Lakes and Streams Act. Brushy vegetation shall be restored to the distributed area in the natural vegetation zone. Local service lines to private dwellings shall originate from the landward side of the dwelling in so far as practicable.

Utilities shall be required to obtain permission from the property owner to chemically treat vegetation in the right-of-way of utility easements that have only provision for cutting and trimming. Chemical treatment shall be prohibited in the vegetative management zone.

## 8. Signs

Only those signs necessary for identification, directions, resource information, and regulation of use, shall be placed along public use areas of the designated river and tributaries. The Department of Natural Resources shall post signs at access sites and on state and county road bridges emphasizing respect for private property rights and penalties for littering and trespassing. Signs for the sale of products or services shall be prohibited in the natural river area except a business may advertise on lands on which that business is established or operates.

Signs and outdoor advertising devices must be (1) related to permitted uses, (2) not more than one square foot in area for residential uses and not more than four square feet in area for any other areas, (3) not illuminated by any neon or flashing device, and (4) not attached to any tree or shrub.

## 9. Canoe Landings

Docks or landings may be constructed parallel to the bank, not to exceed 10 feet in length and not protruding into the stream. The use of "natural" materials such as rocks or logs is encouraged.

## G. Land Use

### 1. Managed Vegetative Strip

A natural vegetative area shall be maintained along both sides of the river or tributaries as noted below:

- (a) Country-Scenic Zone
  - Mainstream – 50 feet
  - State Land – 100 feet
- (b) Wild-Scenic Zone
  - Mainstream – 75 feet
  - Tributaries – 50 feet
  - State Land – 100 feet

The vegetative strip shall contain native trees, shrubs and other vegetation and natural materials. The purpose of this strip is to stabilize the river banks, prevent erosion, absorb nutrients in water runoff from adjacent lands, provide shading for the stream to maintain cool water temperatures and screening of adjacent man-made structures.

The local zoning administrator shall notify each applicant for a land use or building permit of the purpose of this vegetative strip and the other provisions of this section.

## Agricultural and Related Uses

Fencing, grazing, riding trails, and soil tilling for from crops is discouraged in the vegetative strip. The use of the vegetative strip for stock watering areas, stream crossing of horseback trails or other trails is subject to the approval of the zoning administrator. If, in his opinion, the crossing or use would result in stream bank and water degradation, a plan or technical assistance from the Soil Conservation District should be obtained as part of the requirement for use. No trash, refuse, junk cars, appliances, junk farm implements, garbage, offal, sawdust, waste construction materials or other unnatural, unsightly or offensive material shall be dumped or stored within the vegetative strip. The storage of materials incidental to forestry or farm operations is permitted; provided they are hidden from actual view from the river. No ponds shall be constructed, nor earth moved, surface soils removed or filled within the vegetative strip.

### 2. Minerals

New surface development, exploration or production of gas, oil, brine, sand, gravel or other minerals, except potable ground water are not permitted within 300 feet of the designated river or tributaries on private lands (Section 30509, Part 305, P.A. 451 of 1994). Natural Resources Commission policy prohibits drilling for oil or gas within ¼ mile of major streams on state land.

### 3. Litter Control

- (a) In view of the special status of the Boardman River, the committee feels every effort should be made to install and maintain sanitary facilities meeting local health department standards at various public access locations along the river and signing to indicate such, as well as signs to indicate float times to next facility.
- (b) Active program by Department of Natural Resources to maintain state facilities and pick up trash.
- (c) Possible user fees in future to pay for litter pick up.

### 4. Soil Erosion and Sedimentation Control

All earth changing activities must be in conformance with the Soil Erosion and Sedimentation Control Act (Part 361, P.A. 451 of 1994). "A person proposing a land use activity which disturbs one or more acres of land, or if the earth change is within 500 feet of a lake or stream shall obtain a permit form the appropriate county or local enforcing agency."

## H. River or River Related Activities

### 1. Boating and Canoeing

- (a) Non-motorized boating and canoeing is permitted, however, it should be discouraged upstream from the “Forks” and on all tributaries to avoid trespass, hazards and conflict with fishing activity.
- (b) Commercial canoe activities should be discouraged above Brown Bridge Dam and restricted below.
- (c) The following items were recommended by the committee to help avoid user conflict, trespass and littering:
  - (1) Determine carrying capacity of river for canoes.
  - (2) Until such time as the Department of Natural Resources has established a carrying capacity and is enforcing a control program, canoe livery activities should be discouraged.
  - (3) Discourage canoeing above the “Forks”.
  - (4) Designate public access sites as fishing access, canoeing access, etc.
  - (5) Sign access sites to indicate not suitable for canoeing, where appropriate.
  - (6) Develop sanitary facilities at public access sites along river and sign river to indicate such.
  - (7) Regulate and/or number or otherwise identify canoes.
  - (8) For safety, rafting of canoes shall be discouraged.

### 2. Campgrounds and Picnic Areas

- (a) Private campgrounds are permitted, provided they are constructed and maintained in accord with state health requirements. They may include tents, travel trailers, campers and motor home use and ancillary buildings, hookups, pads, etc.; provided, however, they are in conformance with established setbacks for new homes.
- (b) On public lands, no new campgrounds shall be permitted within 200 feet of the river. It is also recommended that the existing state forest campgrounds be moved away from the river to meet the setback limits. Where possible, the recommended vegetative strip should be re-established and maintained.

### 3. Fishing, Hunting and Related Wildlife Activity

- (a) Fishing, hunting and trapping will be permitted in the natural river area in accord with Michigan game and fish laws. Firearm use shall be in accordance with state laws and rules pertaining to the use of firearms.
- (b) The Boardman River system should be managed for the existing fish species, with management efforts oriented toward enhancing

this fishery, including efforts to achieve a stable waterflow. The introduction of any new species should be first documented by reports of the implications and compatibility of such a program with other native species, recreational uses and the control techniques necessary to protect private property rights and the natural quality along the river. Any decision to remove a dam on the river should include consideration of the rights of property owners and the general public, a plan for stabilization of stream banks and sediment, and a plan for the use of any new lands created in regards to the natural character of the river.

- (c) Wildlife management programs or practices if undertaken in the natural river area will be done in conformance with the natural character of the area.

## I. Access and Motorized Travel

### 1. Public Access

Plans for relocation or improvements to public roads and utilities must be approved by the local zoning board and the Natural Resources Commission (Secs. 30509 and 30514, Part 305).

- (a) It is recommended that the following access sites and/or rest stops be established and the following improvements be initiated by responsible public agency on existing sites:
  - (1) Forks' campground needs soil erosion control beside steps. Signs are needed.
  - (2) Scheck's Place campground needs bank stabilization, restriction of driving to water's edge. Signs. Possible better site for canoe landing at horse watering area—three minutes upstream.
  - (3) Brown Bridge Pond boat landing needs toilet, water and table facilities. Signs needed.
  - (4) Brown Bridge Dam – signs indicating take-out point for portage is needed. Erosion control needed at portage and put-in site.
  - (5) Public fishing access site – Section 13, Blair Township. Canoe landing could be constructed just downstream. Signs needed on river.
  - (6) Beitner Bridge – erosion control needed at bridge. Also, site needs toilet and trash facilities. Sign at bridge warning of rough water ahead (about ¼ mile where Keystone Dam washed out).
  - (7) Boardman Pond, develop access site and sanitary facilities. Sign portage trail for those continuing downstream.

### 2. Motorized Travel

All terrain vehicles (ATV's), snowmobiles, and motorcycles shall be limited to trail roads, county roads and highways or designated trails presently

used by autos, or on private property, with the owner's permission. No motorized vessels will be allowed on the flowing portion of the river.

## J. Administration

### 1. Land Use Guidelines

(a) Zoning by local governmental units (township or county) shall be the chief means of protecting the Boardman River and its designated tributaries as a natural river under the Natural River Plan.

(1) Zoning shall be applied within a Natural River District on both the designated mainstream and tributaries. Upon adoption of a local zoning ordinance, certified copies of maps and/or documents describing the Natural River District shall be filed with the local tax assessing officer and County Equalization Department. In establishing true cash value of property within the Natural River District, the assessing officer shall recognize the effect of use limits established by the ordinance (Section 30511, Part 305, P.A. 451 of 1994).

The Boardman River Management Plan Committee also urges local government units to adopt building setbacks, vegetation management and septic system controls for other streams under their jurisdiction not within the natural rivers designation.

Any property owner with undeveloped river frontage on the designated portions of the Boardman River or its designated tributaries may sign an open space development rights easement with the state under Part 361, P.A. 451 of 1994 to obtain direct tax relief.

(2) Appeals: Under certain circumstances, strict adherence to this plan may create unreasonable hardships for the frontage owner. Such case may be appealed to the appropriate local board for a variance. Applications for a variance shall be based on a site plan. The County Health Department, Soil Conservation Service, appropriate field personnel of the Department of Natural Resources and other experts should be consulted to recommend to the appeals board a course of action which will have the least degrading impact on the character of the natural river. Final determination of the variance may be made by the local appeals board.

(3) Nonconforming Uses: As stated in Section 30512 of the Natural Rivers Act, 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 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, 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 of Natural Resources to purchase lands on or trade other lands for lands along the river as key areas are identified and as funds become available (Section 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 or inserting restrictions in their deeds which coincide with their property interests. The opportunity to obtain such easements or restrictions should be vigorously pursued.

(c) State Resources: Overall responsibility for implementing and coordinating the Natural River Plan is assigned to the Region II Office of the Department of Natural Resources. The Office of Planning Services and the Department of Natural Resources Natural Rivers Task Force will ace in an advisory capacity. 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 laws and programs reinforcing natural rivers management objectives should be utilized to the extent necessary to protect the river in implementing the management plan for the river and tributaries. (See Appendix A)

**APPENDIX A****PART 305  
NATURAL RIVERS****324.30501 Definitions.**

Sec. 30501. As used in this part:

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

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

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

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

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

**324.30503 Qualifications for designation; categories of rivers.**

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

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

**324.30504 Land acquisition; purpose; interest acquired; consent.**

Sec. 30504. The department may acquire lands or interests in lands adjacent to a designated natural river for the purpose of maintaining or improving the river and its environment in conformance with the purposes of the designation and the plan.

Interests that may be acquired include, but are not limited to, easements designed to provide for preservation and to limit development, without providing public access and use. Lands or interests in lands shall be acquired under this part only with the consent of the owner.

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

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

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

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

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

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

**324.30506 Public hearings; notice.**

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

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

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

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

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

**324.30508 Zoning ordinance or rule; purpose.**

Sec. 30508. A zoning ordinance adopted by a local unit of government or a zoning rule promulgated by the department shall provide for the protection of the river and its related land resources consistent with the preservation and enhancement of their values

and the objectives set forth in section 30502. The ordinance or rule shall protect the interest of the people of the state as a whole. It shall take cognizance of the characteristics of the land and water concerned, surrounding development, and existing uses and provide for conservation of soil, water, streambed and banks, floodplains, and adjoining uplands.

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

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

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

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

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

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

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

**324.30511 Districts; valuation for tax purposes.**

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

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

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

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

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

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

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

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

### **324.30513 National wild and scenic river system; administration.**

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

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

### **324.30514 Area plans; approval; rules.**

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

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

### **324.30515 Construction of part.**

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

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

**APPENDIX B**

**DEPARTMENT OF NATURAL RESOURCES  
FISHERIES DIVISION  
BOARDMAN RIVER NATURAL RIVER ZONING**

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

**R 281.251 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, special exception permit, or variance.

(b) "Appurtenance" means a structure that is incidental to a dwelling, including, but not limited to, garages, private access roads, pump houses, wells, sanitary facilities, and 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 §1 25.1501 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) "Commission" means the natural resources commission.

(g) "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.

(h) "Director" means the director of the department of natural resources.

(i) "Family" means either of the following:

(i) One or more persons who are related by blood, legal adoption, or marriage and who occupy a single-family dwelling unit with not more than 3 other persons.

(ii) Not more than 5 unrelated persons who occupy a single-family dwelling unit.

(j) "Filtered view of the river" means the maintenance or establishment of woody vegetation of sufficient density to screen developments from the river, to provide for streambank stabilization and erosion control, to serve as an aid to 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.

(k) "Front" means that side of a lot abutting the river's edge of the mainstream or tributary.

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

(m) "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 described by metes and bounds which has been recorded as required by law.

(n) "Natural river district" means the Boardman river natural river district as described in R 281.253 (1).

(o) "Ordinary high-water mark" 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.

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

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

(r) "Setback" means the 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.

(s) "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.

(t) "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.

(u) "Structure" means anything that is constructed, erected, or moved to or from any premise which is located above, on, or below the ground, including, but not limited to, roads, signs, billboards, and mobile homes. Temporary recreational facilities, including, but not limited to, tents, camper trailers, and recreation vehicles are not considered structures when used less than 30 days per year and located landward of the natural vegetation strip.

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

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

(x) "Zoning review board" means a group of not less than 5 nor more than 9 people which includes not less than 3 local representatives and 1 department of natural resources representative and which is appointed by the commission to act upon requests for special exceptions.

History: 1979 ACS 7, Eff. July 16, 1981.

**R 281.252 Purpose.**

Rule 2. The commission, on its own motion, in order 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 Boardman river, a designated natural river, promulgates these zoning rules whose purposes are as follows:

(a) To promote the public health, safety, and general welfare, to prevent economic and ecological damage due to unwise development patterns 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 and wildlife resources, water quality, scenic and aesthetic qualities, and historical and recreational values of the Boardman river and adjoining land.

(c) To prevent flood damage due to interference with 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 residential and other compatible, permitted uses that complement the natural characteristics of the natural river system.

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

History: 1979 ACS 7, Eff. July 16, 1981.

**R 281.253 Boundaries; rules of construction; display and filing of zoning map; effect of zoning rules.**

Rule 3. (1) The boundaries of the Boardman river natural river district shall be as described in these rules and as depicted on the certified Boardman river natural river zoning map. The Boardman river natural river district comprises an area which is described as follows:

(a) Mainstream of Boardman river above Brown bridge dam to Forks.

(b) Mainstream of Boardman river from the north boundary of Grand Traverse county property in section 27, T27N, R11W, Garfield township to Brown bridge dam, section 15, T26N, R10W, East Bay township.

(c) North branch from Forks to U.S. 131 in Kalkaska county.

(d) South branch from Forks to U.S. 131 in Kalkaska county.

(e) Beitner creek to Sawyer road in section 8, and south to the south line of section 9, T26N, R11W, Blair township.

(f) Jaxon creek to the south line of section 31, T26N, R10W, Paradise township.

(g) Swainston creek to the west line of section 8, T25N, R10W, Paradise township.

(h) Jackson creek to Wood road, section 14, T25N, R10W, Paradise township.

(i) East creek to Bancroft and Parker creeks, section 36, T26N, R10W, Paradise township.

(j) Parker creek to the east-west centerline of section 31, T26N, R9W, Union township.

(k) Bancroft creek to Sparling road, section 7, T25N, R9W, Fife lake township.

(1) Carpenter creek to county road 660, section 13, T26N, R9W, Union township.

- (m) Twenty-two creek to the east line of section 27, T26N, R9W, Union township.
- (n) Taylor creek to U.S. 131, section 15, T26N, R9W, Boardman township.
- (o) Crofton creek to U.S. 131, section 2, T26N, R8W, Boardman township.
- (p) Failing creek to U.S. 131, section 30, T27N, R7W, Kalkaska township.

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

(2) Certified copies of the Boardman river natural river zoning map shall be filed with the local tax assessing officers and with the state tax commission, and additional display copies shall be provided to local officials in the Boardman river area, including all of the following:

- (a) County register of deeds.
- (b) Zoning administrator of these rules.

(c) Local planning, zoning, and health officials.

(d) Township and county clerks.

(e) Local building inspector.

(f) Local soil erosion and sedimentation control enforcement agencies.

(g) The soil conservation service.

(h) Boardman river advisory council.

(3) These zoning rules do not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions applicable to lands within the natural river district, except that if these rules impose greater restrictions than those found on such easements, covenants, or deeds, the provisions of these rules shall prevail.

(4) These zoning rules do not permit actions prohibited by other statutes or ordinances, including any zoning ordinances, which are applicable to the natural river district. Therefore, all of the following provisions apply:

(a) All earth-changing activities, other than normal landscaping or maintenance, that are undertaken within 500 feet of a lake or stream are subject to the provisions of Act No. 347 of the Public Acts of 1972, as amended, being §282.101 et seq. of the Michigan Compiled Laws.

(b) All dredge and fill activities and construction of permanent structures lying below the ordinary high-water mark are subject to the provisions of Act No. 346 of the Public Acts of 1972, being §281.951 et seq. of the Michigan Compiled Laws.

(c) All development and land uses in the Boardman river natural river district are subject to the provisions of appropriate local zoning ordinances, health codes, and building codes, including requirements for permits and approvals.

(5) If uncertainty exists with respect to the boundaries indicated on the Boardman river natural river zoning map, all of the following rules shall apply:

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

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

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

(d) Boundaries that are indicated as approximately following railroad lines shall be construed to be midway between the main tracks.

(e) Boundaries that are indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance therefrom as indicated on the official Boardman river natural river zoning map. If no distance is given, the dimension shall be determined by the use of the scale shown on the official Boardman river natural river zoning map.

(f) Boundaries that follow the shoreline of a river, stream, lake, or other body of water shall be construed to follow such shoreline and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline. Boundaries that are indicated as approximately following the thread of streams, canals, or other bodies of water shall be construed to follow such threads.

History: 1979 ACS 7, Eff. July 16, 1981.

**R 281.254 Zoning permits; application; additional requirements.**

Rule 4. (1) A person shall not commence excavation, erection, alteration, or repair of a building or structure, or commence a land use, until a zoning permit has been obtained from the zoning administrator. If the alterations or ordinary maintenance made on a dwelling does not change the character of the structure or land use, and if the total cost does not exceed 5% of the market value of the structure in any 12-month period, the owner of the structure or land is exempt from obtaining a zoning permit, but may be required to obtain a local building permit from the appropriate local building inspector.

(2) A written application for a zoning permit shall be filed with the zoning administrator. All of the following information shall be submitted with an application for a zoning permit:

(a) Two copies of a site plan which gives accurate dimensions on either a scale drawing or a rough sketch and which contain all of the following information:

(i) The location on the lot of all existing and proposed structures.

(ii) The existing or intended use of the structure.

(iii) The generalized vegetative cover.

(iv) The lines and dimensions of the lot to be used.

(b) Evidence of ownership of all property that is affected by the coverage of the permit.

(c) Evidence that all required federal, state, county, and township licenses or permits have been acquired, or that applications have been filed for the required licenses and permits.

(d) Other information as required by the zoning administrator, which is necessary to carry out the intent and provisions of these rules.

(3) One copy of both the plans and the specifications shall be filed and retained by the zoning administrator, and the other copy shall be delivered to the applicant when the zoning administrator has approved the application, completed the site inspection, and issued the zoning permit. To insure that new land uses in the natural river district are in conformance with these rules, before beginning construction or commencing a land use,

the 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. Failure to obtain and display a permit is a violation of these rules.

(4) Within 30 days of receipt of a completed application, the zoning administrator shall render a decision to 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 applicants.

(5) 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 time not to exceed 6 months. Any subsequent extensions shall have the written approval of the zoning review board.

History: 1979 ACS 7, Eff. July 16, 1981.

**R 281.255 Subdivision of land; plats with preliminary approval.**

Rule 5. (1) 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 subrule (2) of this rule.

(2) Proposed lots that have preliminary plat approval pursuant to 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 the

effective date shall, on final plat approval, be issued a permit subject to the requirements provided in R 281.259.

History: 1979 ACS 7, Eff. July 16, 1981.

**R 281.256 Permitted uses.**

Rule 6. (1) The following uses are permitted by the owner upon the owner's property within the natural river district, subject to the limitations and requirements outlined in these zoning rules, local ordinances, and other applicable statutes:

(a) Private camping and other recreational activities which do not require the installation of permanent structures and which are outside of the natural vegetation strip.

(b) The operation of watercraft, subject to the limitations of local ordinances established under the authority of Act No. 303 of the Public Acts of 1967, as amended, being §281.1001 et seq. of the Michigan Compiled Laws.

(c) Fishing and hunting in compliance with existing laws and rules.

(d) Reforestation and other accepted forest management practices, subject to the limitations outlined in R 281.257.

(e) Normal agricultural activities, if the activities meet the requirements of these rules, and if the bureau of environmental protection of the department of natural resources determines that such activities do not contribute to stream degradation.

(f) The operation of licensed motor vehicles on dedicated public roads or access roads to private single-family dwellings.

(g) Off-road operation of emergency and public utility maintenance vehicles.

(h) Private footpaths that are constructed by the landowner of natural materials to facilitate permitted uses.

(2) The following uses are permitted upon prior approval of the zoning administrator:

(a) One single-family dwelling and appurtenances on a lot not less than 200 front-feet wide and 200 feet deep, subject to the following limitations:

(i) On the mainstream portion of the Boardman river described in R 281.253 (1) (a), new buildings and appurtenances shall be required to set back not less than 150 feet from the river's edge.

(ii) On the mainstream portion of the Boardman river and all tributaries described in A 281.253(1)(b) to (p), new buildings and appurtenances shall be required to set back not less than 100 feet from the river's edge.

(iii) New structures shall be set back not less than 50 feet from the top of the bluff on the cutting edges of the river and tributaries, or 25 feet from the top of the bluff on the noncutting edge of the stream.

(iv) Set back shall be not less than 15 feet from side lot lines and not less than 25 feet from the right-of-way of a public road.

(v) New structures shall not be located on land that is subject to flooding.

(b) Plats, if the minimum setbacks and lot width requirements specified in subdivision (a) of this subrule are met.

(c) Private boat docks that are not more than 10 feet in length, with none of the dock extending over the water, if they are designed, constructed, and maintained with indigenous natural materials, and if a permit is issued under the authority of Act No. 346 of the Public Acts of 1972, being §281.951 et seq. of the Michigan Compiled Laws.

(d) Mining and extracting industries which are located more than 300 feet from the ordinary high-water mark, if they are constructed and operated pursuant to applicable local ordinances and state laws and rules.

(e) Utility lines to service private single-family dwellings.

(f) Utility transmission lines on lands or interests in real property which are continuously owned by a utility from January 1, 1971, subject to review and approval by the commission.

(g) Disposal fields and septic tanks which are located not less than 100 feet from the ordinary high-water mark or on lands that are not subject to flooding, whichever distance is greater, and which are in conformance with local county health codes and these rules. In addition, a septic tank or absorption field shall not be closer than 50 feet to any surface or subsurface drainage system emptying into the Boardman river or its designated tributaries.

(h) Land alteration, such as grading, dredging and filling of the land surface, unless the high-groundwater table is within 6 feet of the land surface, if the activities meet all of the provisions of Act No. 347 of the Public Acts of 1972, as amended, being §2 82.101 et seq. of the Michigan Compiled Laws, and Act No. 346 of the Public Acts of 1972, being §2 81.951 et seq. of the Michigan Compiled Laws, and if approval is granted by the local soil erosion and sedimentation control enforcement agency and the department of natural resources.

(i) Signs and outdoor advertising devices shall meet all of the following requirements:

- (i) They shall be related to permitted uses.
- (ii) They shall not be more than 1 square foot in area for residential uses and not more than 4 square feet in area for any other uses.
- (iii) They shall not be illuminated by a neon light or flashing device.
- (iv) They shall not be attached to a tree or shrub.
- (j) Other uses for which an applicant is granted a permit by the zoning administrator pursuant to R 281.258, R 281.259, and R 281.261.

History: 1979 ACS 7, Eff. July 16, 1981.

**R 281.257 Natural vegetation strip.**

Rule 7. On that portion of the mainstream described in R 281.253(l) (a), a 75-foot minimum restrictive cutting belt shall be maintained on each side of the stream and on the portion of the mainstream and tributaries described in R 281.253(1)(b) to (p), a 50-foot minimum restrictive cutting belt shall be maintained on each side of the stream. Trees and shrubs may be pruned for a filtered view of the river upon approval of the zoning administrator or the area forester, but clear cutting in the natural vegetation strip is prohibited. The natural vegetation strip is also subject to both of the following provisions:

- (a) Dead, diseased, unsafe, or fallen trees and noxious plants and shrubs, including poison ivy, poison sumac, and poison oak, may be removed.
- (b) Selective removal or trimming of trees for timber harvest, access, woodlot improvement, landscaping, or public utility lines to service private single-family dwellings is permitted upon approval of the area forester or zoning administrator.

History: 1979 ACS 7, Eff. July 16, 1981.

**R 281.258 Special exception permits.**

Rule 8. (1) Special exception permits may be granted to allow a use in the natural river district which is not specifically permitted by R 281.256, if implementation of that use does not contravene the purposes of these rules as specified in R 281.252.

(2) Application for a special exception permit shall be made on a form provided by the zoning administrator.

(3) Upon reviewing an application for a special exception permit, the zoning review board, at any time before rendering a decision thereon, shall require the applicant to furnish all of the following information which the zoning review board deems necessary for determining the suitability of the particular site for the proposed use:

- (a) A detailed description of the proposed activity or use.
- (b) A surface view plan which gives accurate dimensions on either a scale drawing or a rough sketch and which shows all of the following:
  - (i) Elevations or contours of the ground, including existing earth fills.
  - (ii) Generalized vegetative cover.
  - (iii) Size, location, and spatial arrangement of all proposed and existing structures on the site.
  - (iv) Location and elevation of streets, access roads, and water supply and sanitary facilities.

- (c) Photographs that show existing land uses and vegetation upstream and downstream from the proposed use.
  - (d) Valley cross sections that show the natural stream channel; streambanks; high-water marks; flood marks, if known; and locations of proposed developments.
  - (e) All other information which is deemed relevant by the zoning administrator and which is necessary to carry out the intent and provisions of these rules.
- (4) Before considering applications, the zoning review board shall give notice, by certified mail, to all of the following:
- (a) Property owners whose property is within 500 feet of the proposed use as shown on the current tax assessment rolls.
  - (b) The appropriate local officials and department of natural resources personnel, including all of the following:
    - (i) The township supervisor.
    - (ii) The township building inspector.
    - (iii) The county health officer.
    - (iv) The local soil erosion and sedimentation control enforcement agency.
    - (v) County and township planning and zoning officials.
    - (vi) The soil conservation service.
    - (vii) The regional office and natural rivers section of the department of natural resources.
    - (viii) Boardman river advisory council.
  - (c) Any other interested parties who request that they be notified of such applications in the natural river district.
- (5) In reviewing an application, the zoning review board shall consider all of the following:
- (a) All relevant factors specified in these rules in light of the spirit and intent of the purposes specified in R 281.252.
  - (b) The economic effect of the subject property weighed in light of the applicant's entire contiguous holdings and not merely the portion within the natural river district. If the subject portion is the remainder of a larger holding, this fact, together with a description of the title history, shall be included in the hearing evidence.
- (c) Increases in flood levels and flood damage that may be occasioned by the proposed use at the site and upstream and downstream from the site, water quality consequences, and other relevant factors within the terms of these rules.
  - (d) The cumulative effect upon the natural river district from the potential development of holdings in a legal position similar to the applicant's, if the applicant's request is approved by the zoning review board.
  - (e) Reasonable alternatives that are available to the applicant.
- (6) In weighing the applicant's request, consideration of public health, safety, and welfare shall prevail unless private injury is proved by a preponderance of the evidence, to be so great as to override the public interest.

(7) A requested use shall not be granted if the zoning review board determines that the requested use poses a substantial hazard to life or to public or private property rights.

(8) The zoning review board may require public hearings to be held regarding the application. The zoning review board shall decide on an application within 30 days after its receipt, except that if public hearings are held or if additional information is required pursuant to subrule (3) of this rule, the zoning review board shall render a decision within 30 days following the hearings or upon receipt of the last requested item of information.

(9) The zoning review board shall attach such conditions to the granting of a special exception permit as are necessary to further the purposes of these rules.

(10) A special exception use shall adhere strictly to the terms of the special exception permit. A special exception permit that does not adhere strictly to the terms of the permit may be revoked by the zoning administrator.

History: 1979 ACS 7, Eff. July 16, 1981.

**R 281.259 Substandard lots of record.**

Rule 9. (1) The zoning administrator, in compliance with the terms of this subrule, shall grant a permit if, because of either of the following circumstances, a proposed structure cannot be erected on a lot of record or a lot described in a deed or land contract executed and delivered before the effective date of this rule:

(a) The lot is of insufficient width, depth, or area.

(b) Physical limitations exist on an existing lot or parcel.

(2) The zoning administrator shall ensure that all structures are located to best meet the objectives and purposes of these rules, the adopted Boardman river natural river plan, and Act No. 231 of the Public Acts of 1970, being §281.761 et seq. of the Michigan Compiled Laws.

(3) The zoning administrator shall determine if a proposed structure on a lot of record or on a lot described in a deed or land contract executed and delivered before the effective date of these rules cannot conform to the standards listed in R 281.256 (2) (a) and is, therefore, ineligible for consideration for use under R 281.256.

(4) A written application for a zoning permit on a lot of record shall be filed with the zoning administrator. The same information required in R 281.254(2) shall be submitted with an application.

(5) The zoning administrator shall grant a zoning permit for the use of a substandard lot of record only upon a showing of all of the following:

(a) Granting the permit is not contrary to the public interest.

(b) The permit does not allow the establishment of a use not otherwise permitted by these rules.

(c) The permit applies only to the property under the control of the applicant.

(d) The practical difficulties claimed by the applicant are not the result of actions taken by the applicant.

(e) Granting the permit poses no substantial hazard to life or to public or private property rights, secures public safety, and does substantial justice.

(f) Granting the permit will not result in an increase of flood levels or risk of flood damage to other lands.

(g) The lot shall be developed pursuant to department of natural resources requirements under Act No. 245 of the Public Acts of 1929, as amended, being §3 23.1 et seq. of the Michigan Compiled Laws.

(h) Use of the lot will not significantly impair existing water quality, vegetative cover, fisheries, or wildlife habitat or increase the risk of erosion.

(i) The substandard lot size shall be the minimum dimensional reduction necessary to achieve a reasonable use of the land, after evaluation of alternative dimensional arrangements and permitted land uses available to the applicant, given the peculiar characteristics of the lot and circumstances surrounding the request. Alternatives shall be examined in light of the applicant's entire contiguous holdings and not merely a single lot or the portion within the natural river area. If dimensional requirements may be more nearly met through lot combination of contiguous holdings, the zoning administrator may so require.

(j) The permit provides that no fill shall be placed within the natural vegetation strip and that the approval of both the appropriate county or district health department and the soil erosion and sedimentation control enforcement agency shall be secured.

(k) The permit provides conditions necessary to insure proper development of the substandard lot pursuant to these rules.

(6) A special exception permit is required if a dimensional reduction of more than 50% of any of the standards listed in R 281.256(2)(a) is necessary to achieve reasonable use of the land. The zoning review board shall base its decision upon the standards set forth in R 281.258(5).

(7) The zoning administrator may confer with, and seek the advice of, the zoning review board, personnel of the Michigan department of natural resources, and other federal, state, and local officials to determine the possible effects of, and a suitable location for, a proposed structure.

(8) One copy of the plans, specifications, and the zoning permit, with conditions attached, shall be filed and retained by the zoning administrator, and another copy of each shall be delivered to the applicant when the zoning administrator has approved the application, completed the site inspection, and issued a zoning permit.

(9) The applicant may appeal any decision of the zoning administrator or any conditions attached to a zoning permit to the zoning review board.

History: 1979 ACS 7, Eff. July 16, 1981.

### **R 281.260 Nonconforming uses.**

Rule 10. (1) The lawful use of any land or structure that is in existence on the effective date of these rules may be continued even though the use does not conform to these rules.

(2) Routine or normal repairs and maintenance work required to keep a nonconforming structure or other use, such as a roadway, in sound condition are permitted. Remodeling of nonconforming structures within the confines of the existing foundation

and elevations is permitted if the structure is neither enlarged nor extended nor its use changed.

(3) A special exception permit is required for the restoration of a nonconforming building or structure which is damaged or destroyed by more than 50% of its value due to flood,

fire, or other means. In determining whether 50% of the value has been destroyed, the zoning review board shall use appraised replacement costs, as determined by a qualified individual appointed by the zoning review board, and shall compare the value of the part destroyed to the value of the total operating unit where there are several buildings or structures which are used together by the landowner as a single operating unit. A request for a permit to restore a nonconforming building or structure damaged or destroyed by more than 50% of its value shall be approved if all of the following conditions exist:

- (a) The land on which the building or structure is situated is not subject to flooding.
  - (b) The continued use of a nonconforming building or structure will not lead to accelerated bank erosion or other material degradation of the river resource, and the use of the building or structure is approved by the local soil erosion and sedimentation control enforcement agency.
  - (c) The continued use conforms with local county health codes and is approved by the local county health department.
  - (d) The continued use conforms with local building codes and is approved by the local building inspector.
  - (e) Restoration of a damaged building or structure, if approved by the zoning review board, shall be started within 1 year from the time of damage.
- (4) A nonconforming use may be changed to a use of a like or similar character if the new use more closely conforms to the rules of the natural river district.
- (5) A nonconforming use of any land or structure shall not be enlarged or extended without a special exception permit granted upon consideration of the factors outlined in subrule (3) of this rule. An enlargement or extension of a nonconforming use of up to 50% of the land area or the floor area of a residential structure or public accommodation which provides overnight facilities and which does not exceed 12 units may be approved by the zoning review board if the owner submits to the zoning review board a detailed description of the proposed enlargement or extension, together with a site plan showing the location of all new structures or uses, and if the zoning review board determines that all of the following conditions exist:
- (a) The land on which the nonconforming use is situated is not subject to flooding.
  - (b) The enlargement or extension of the nonconforming use does not lead to accelerated bank erosion or other material degradation of the river resource, and the enlargement or extension is approved by the local soil erosion and sedimentation control enforcement agency.
  - (c) The enlargement or extended use conforms with local county health codes and is approved by the local county health department.
  - (d) The enlarged or extended use conforms with local building codes and is approved by the local building inspector.
  - (e) The enlarged or extended use does not contravene the purposes of these rules as specified in R 281.252.

(6) The substitution of a nonconforming use with another nonconforming use may be made if a special exception permit is granted, based upon consideration of the factors outlined in subrule (5) of this rule, to ensure that the changed use conforms as closely as possible to the purposes of these rules as specified in R 281.252.

(7) If a nonconforming use is discontinued for 12 consecutive months, any future use at that site shall conform to these rules.

(8) A property owner may request the zoning review board to certify the existence of a prior nonconforming use on the owner's property. Certification of a prior nonconforming use shall be granted if the use meets the criteria of this rule and the common law criteria of nonconforming uses of this state.

History: 1979 ACS 7, Eff. July 16, 1981.

**R 281.261 Appeals; contested cases.**

Rule 11. An aggrieved party who contests a 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 §2 4.201 et seq. of the Michigan Compiled Laws, and R 299.3071 to R 299.3081.

History: 1979 ACS 7, Eff. July 16, 1981.

**R 281.262 Zoning administrator and zoning review board; appointment; and duties.**

Rule 12. The commission shall appoint a zoning administrator and a zoning review board to act as its agents to enforce these rules. The duties of the zoning review board and zoning administrator include, but are not limited to, all of the following:

(a) Receiving and processing applications for zoning permits, special exception permits, petitions for appeals, requests for changes, amendments, and supplements.

(b) Inspecting sites.

(c) Issuing or denying zoning permits as outlined in these rules.

(d) Assisting with other matters requiring a decision by the commission.

History: 1979 ACS 7, Eff. July 16, 1981.

**R 281.263 Violations.**

Rule 13. (1) An alleged violation shall be inspected by the staff of the department of natural resources. If a violation is found, the department shall order the applicant, in writing, to correct all conditions found to be in violation of these rules.

(2) The owner of a building, structure, or land which violates these rules is subject to the provisions of section 13 of Act No. 231 of the Public Acts of 1970, being §2 81.773 of the Michigan Compiled Laws.

History: 1979 ACS 7, Eff. July 16, 1981.

**R 281.264 Boundaries and permitted uses; changes, amendments, and supplements.**

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, if implementation of the change, amendment, or supplement does not contravene the purposes of these rules as specified in R 281.252.

- (3) A local unit of government or a landowner who requests a change, amendment, or supplement to the boundaries or to permitted uses shall have a hearing held pursuant to

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.

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

- (a) The county register of deeds.
- (b) The zoning administrator of these rules.
- (c) Local planning, zoning, and health officials.
- (d) Township and county clerks.
- (e) The local building inspector.
- (f) Local soil erosion and sedimentation control enforcement agencies.
- (g) The soil conservation service.
- (h) Public utility companies which provide service to riverfront property owners affected by these rules.
- (i) Boardman river advisory council.

(4) Upon approval by the director, a local zoning ordinance which 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 §125.201 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 Boardman river natural river district through court action or for any other reason, these rules shall apply.

History: 1979 ACS 7, Eff. July 16, 1981.