

## DEPARTMENT OF NATURAL RESOURCES

### FISHERIES DIVISION

#### NATURAL RIVER ZONING

(By authority conferred on the director of the department of natural resources by section 30512 of Part 305 of 1994 PA 451, MCL 324.30512, and Executive Orders 1991-22, 2009-45, and 2011-1, MCL 299.13, 281.99919, and 281.99921)

#### **R 281.51 Definitions.**

Rule 1. (1) As used in these rules:

(a) "Applicant" means a person who requests on a form provided by the department and via proper procedures, a zoning permit for a principal use, special use, or variance.

(b) "Appurtenance" means a structure or accessory building incidental to a principal or exempt use including all of the following:

(i) Detached garage.

(ii) Residential storage shed.

(iii) Barn and other agricultural storage and livestock structure.

(iv) Pump house.

(v) Private access roads and driveway.

(vi) Electrical service line.

(c) "Bankfull" means the width of the stream that corresponds to the depth where water fills a main channel to the point of overflowing.

(d) "Bed and breakfast" means a single-family dwelling providing not more than 3 bedrooms for rent and breakfast served to transient overnight guests only and is the owner's primary residence and is occupied by the owner at the time of rental.

(e) "Bluff" means a bank that rises at a slope of 33 degrees or greater from within 10 feet of the river's edge. The crest of the bluff is the first riverward facing area (approximately parallel to the river) that breaks to a slope of less than 18 degrees for a distance away from the river of at least 25 feet.

(f) "Bridge" means any structure of any span length designed to provide a pedestrian, vehicle, livestock, or any other stream crossing, including but not limited to, a culvert, open bottom arch, and clear-span or multi-span structure.

(g) "Building inspector" means the agency or individual who is appointed by the appropriate governmental subdivision to issue a building permit and to administer the state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(h) "Campground" means a parcel or tract of land in which sites are offered for the use of the public or a member of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for 5 or more recreational units; "campground" does not include a seasonal mobile home park licensed under the mobile home commission act, 1987 PA 96, MCL 125.2301 to 125.2349.

(i) "Certificate of zoning compliance" means a certificate issued by the zoning administrator upon determination that the construction and use of land and any structure,

as authorized by a zoning permit, including the approved site plan, is in compliance with the approved zoning permit and site plan.

(j) "Cutting edge of the river" means the outside bend of a river or stream channel where the water velocity is such that it may cause soil or streambank erosion.

(k) "Designated natural river" means a river designated by the director under the authority of part 305, natural rivers, 1994 PA 451, MCL 324.30501 to 324.30515.

(l) "Dock" means a seasonal or permanent platform located at the water's edge or extending into the river channel, intended for securing and facilitating access to watercraft or to facilitate access to deeper water for swimming, fishing, or other water-oriented recreational activity and does not include a wall, railing, a storage locker, an attached bench, or any similar structure attached thereto.

(m) "Effective date of these rules" means the zoning rule promulgation date for each designated natural river as follows:

(i) Jordan river – September 25, 1974.

(ii) Betsie river – June 11, 1977.

(iii) White river - May 5, 1979.

(iv) Huron river – June 2, 1980.

(v) Rogue river – June 2, 1980.

(vi) Boardman river – June 2, 1980.

(vii) Pere Marquette river – July 15, 1981.

(viii) Rifle river – April 24, 1984.

(ix) Flat river – June 21, 1984.

(x) Pigeon river – February 13, 1985.

(xi) Au Sable river – August 15, 1990.

(xii) Pine river – December 27, 2004.

(xiii) Upper Manistee river – December 27, 2004.

(xiv) Two Hearted river – effective date of these rules.

(xv) Lower Kalamazoo river - effective date of these rules.

(xvi) Fox river - effective date of these rules.

(n) "Filtered view" means the maintenance or establishment of woody vegetation of sufficient density to screen development from the river. The vegetation need not be so dense as to completely block the river view.

(o) "Floodplain" means an identified or documented area of land adjoining a river or stream that will be inundated by a 100-year flood, as defined in part 13, floodplains and floodways, MCL 324.1301 to 324.1311.

(p) "Front" means that segment of a lot or parcel closest to or abutting the designated natural river.

(q) "Ground floor area" means the area of the ground covered by a dwelling measured on the outside of a building, including a covered porch and attached garage, but not including a deck or patio.

(r) "Home-based occupation" means a business activity that is secondary to the use as a residence of a single-family dwelling and may be conducted on or off the premises of a single-family dwelling by the resident of that single-family dwelling, and may include storage of vehicles and equipment.

(s) "Impervious surface" means a surface, including a paved and unpaved driveway, deck, rooftop, road, patio, swimming pool, or parking lot, that does not allow stormwater to infiltrate the ground.

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

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

(v) "Lot of record" means a lot that exists in a subdivision plat as shown by records of the county register of deeds existing before the effective date of these rules or a lot or parcel described by metes and bounds and recorded by the county register of deeds before the effective date of these rules.

(w) "Lot, vacant" means a lot that does not contain a single-family dwelling.

(x) "Natural river district" means a natural river area designated by the director.

(y) "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.

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

(aa) "Setback" means the horizontal distance as specified in these rules between any portion of a structure and the ordinary high-water mark or crest of a bluff, measured at the structure's closest point to the ordinary high-water mark or crest of a bluff.

(bb) "Short-term rental facility" means a single-family dwelling with not more than 3 bedrooms offered as a residential rental facility for a rental period of less than 30 days.

(cc) "Single-family dwelling" means a structure designed to be used exclusively for residential purpose, including long-term residential rental purpose, and contains kitchen and bathroom facilities.

(dd) "Structure" means anything constructed, erected, or moved to or from any lot and located above, on, or below the ground, including a building, mobile home, road, boardwalk, sign, billboard, satellite dish greater than 32 inches in diameter, any communication structure, or a fence. An enclosed, self-contained camping unit is not considered a structure if on site fewer than 30 days per calendar year and if located landward of the natural vegetation strip, or if the structure is located on a campsite within a campground licensed under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, if both the individual campsite and the campground were established before the effective date of these rules.

(ee) "Tent camping" means camping within a natural river district on private land with a tent, tarp, or other lightweight structure that is temporary and incurs no land disturbance or clearing of vegetation.

(ff) "Wetland" means land characterized by the presence of hydric soils or water at a frequency and duration sufficient to support wetland vegetation or aquatic life as defined in the wetlands protection act, part 303, 1994 PA 451, MCL 324.30301 to 324.30329.

(gg) "Zoning administrator" means the administrator of these zoning rules as delegated by the director.

(hh) "Zoning permit" means written permission granted by the zoning administrator.

(ii) "Zoning review board" means a group of not more than 7 members appointed by the department to implement these rules.

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

History: 1979 AC; 2013 AACCS.

### **R 281.52 Purpose; intent; scope.**

Rule 2. (1) It is the purpose of these rules to do the following:

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

(b) To protect, preserve, and enhance the natural river district values for the free flowing conditions, water conservation, fish, aquatic, and wildlife resources, ecological, water quality, floodplain, scenic and aesthetic qualities, boating, historical, and recreational values and uses of a designated natural river district and adjoining land.

(c) To provide for residential and other permitted development that will complement the natural characteristics of the natural river system.

(d) To achieve the goals and objectives of the department's natural river plan.

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

(3) It is not the purpose of these rules to revoke, annul, cancel, or in any way impair or interfere with existing provisions of law, ordinance, rule, regulation, or private restrictions placed upon property by covenant or deed. If a provision of law is less restrictive than the provisions of natural rivers, part 305, 1994 PA 451, MCL 324.30501 to 324.30515 and these rules, the provisions of natural rivers, 1994 PA 451, MCL 324.30501 to 324.30515, and these rules shall apply.

History: 1979 AC; 2013 AACCS.

### **R 281.53 Exempt use.**

Rule 3. (1) Land uses exempt from a zoning permit in a designated natural river district include the following:

(a) Private, non-commercial recreation which does not involve a structure, equipment, or other device, and includes camping, boating, fishing, hunting, and other similar activities.

(b) Reforestation and any other accepted forest management practice that does not involve a structure and is landward of the natural vegetation strip.

(c) Agricultural activities, including general and specialized farming such as a Christmas tree farm, provided that any new activity occur landward of the natural vegetation strip and provided such use does not contribute to stream degradation.

Construction of a residential and farm-related structure and appurtenance is classified as a principal use and is subject to zoning permit requirements. Any new aquaculture facility or concentrated animal feeding operation, and expansion of any existing aquaculture facility or concentrated animal feeding operation, is not permitted within the natural river district without a land use variance as described in R 281.60. Resumption of a prior agricultural use previously located within the natural vegetation strip and discontinued, for example, rotation of crop fields, may resume if 1 of the following criteria is met:

- (i) The cessation of use was within 10 years of resumption of use.
- (ii) The cessation of use was due to implementation of a management plan written before the effective date of these rules.
- (iii) The cessation of use was the result of a written agreement with a governmental agency or agencies entered into before the effective date of these rules.
- (iv) The cessation of use was the result of a written agreement with a governmental agency or agencies entered into after the effective date of these rules or ordinances implementing this plan, where the term of cessation of use specified in the agreement is for 10 years or less.
- (v) The cessation of use was required or imposed by a governmental agency or agencies.
- (d) Cutting of low growing vegetation and placement of wood chips on uplands in the natural vegetation strip to create a single footpath of not more than 4 feet in width leading to a single point on the river's edge. A boardwalk or other artificial walkway is not exempt and requires a zoning permit as specified in R 281.57.
- (e) A sign for identification, direction, resource information, exclusion of trespassers, regulation of use and those related to permitted uses, subject to the following provisions:
  - (i) A sign for the sale of a product or service is prohibited, unless related to a permitted use, located on the site of the permitted use, not located in the natural vegetation strip, and not visible from the river.
  - (ii) An illuminated sign is prohibited.
  - (iii) "No trespassing" sign shall be not larger than 1 square foot in area and shall be spaced at least 100 feet apart. Other signs may be not larger than 2 square feet in area, except 1 real estate sign may be not larger than 4 square feet in area if located outside the natural vegetation strip.
- (f) Routine maintenance and repair of a legal use or structure within the existing foundation and structure, subject to R 281.57.
- (g) A satellite dish not more than 32 inches in diameter and located landward of the natural vegetation strip or attached to an existing single-family dwelling, short-term rental facility, or appurtenance.
- (h) Removal of any dead, diseased, or unsafe tree, noxious plant or shrub, within the natural vegetation strip.

History: 1979 AC; 2013 AACS.

#### **R 281.54 Principal use; application procedure.**

Rule 4. (1) An application for a principal use shall be submitted and processed pursuant to all the following:

(a) An application for a principal use shall be completed by the applicant on a form provided by the department and submitted to the zoning administrator. A completed application shall contain all of the following:

(i) A completed application form signed by the applicant or the applicant's representative.

(ii) A site plan that meets the requirements of R 281.56.

(iii) Evidence of ownership or a legal interest in the property affected by the application for a principal use, or authorization from the property owner to apply for a principal use.

(b) Within 21 days of receipt of an application for a principal use, the zoning administrator shall notify the applicant of the need for additional information, if applicable.

(c) Within 30 days of receipt of a completed zoning permit application, the zoning administrator shall determine if a permit shall be issued. Approved zoning permits shall be forwarded to the applicant with an approved site plan by the zoning administrator. If the zoning administrator determines a zoning permit shall not be issued, the reason shall be provided to the applicant in writing.

(d) Before commencing construction of a principal use, an applicant shall display the approved zoning permit and site plan in a location easily visible from the nearest street or roadway until the authorized project is completed.

(e) A zoning permit is valid for 2 years and is not transferable. All structures shall be completed within 2 years from the date of issuance of the zoning permit.

History: 1979 AC; 2013 AACCS.

### **R 281.55 Special use; application procedure.**

Rule 5. (1) A special use includes the following:

(a) A campground, with associated noncommercial structures, impervious pads, and utility hookups, with all of the following provisions:

(i) Campground shall be constructed and maintained in accordance with all applicable state and local regulations.

(ii) A commercial structure associated with the campground is prohibited in the natural river district.

(iii) A structure shall be at least 200 feet from the high-water mark.

(iv) Not more than 4 campsites per acre.

(v) A 100-foot wide natural vegetation strip along the river shall be maintained.

(vi) A campsite that accommodates a wheeled motorized vehicle shall be at least 200 feet from the high-water mark.

(vii) A walk-in campsite shall be landward of the 100-foot natural vegetation strip.

(viii) A dock may be constructed at the rate of 1 dock not larger than 48 square feet for each 200 feet of river frontage, accessed by a single footpath not more than 4 feet wide.

(ix) Wheeled motorized vehicle access to the river is prohibited.

(x) Launch or retrieval of commercial watercraft at any campground by other than a registered camper is prohibited.

(b) A permanent vehicle bridge on a tributary, subject to R 281.58.

(2) An applicant shall submit an application for a special use permit on a form provided by the department and submit it to the zoning administrator. A completed application shall contain all of the following information and attachments:

(a) A completed application signed by the applicant or the applicant's representative.

(b) A site plan that meets the requirements of R 281.56.

(c) Evidence of ownership or a legal interest in the property that is affected by the application for a special use or authorization from the property owner to apply for a special use permit.

(d) A list of all property owners and their mailing addresses whose property is located within 300 feet of applicant's property being considered for a special use.

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

(4) The zoning review board shall conduct at least 1 public hearing and shall require all of the following notifications of the hearing to be made not less than 10 days before consideration of the special use application:

(a) Notice of public hearing shall be published in a newspaper that circulates in the township in which the proposal is located.

(b) Notice of public hearing shall be sent by first-class mail or personal delivery to owners of property for which approval is being considered and to all persons whose property is located within 300 feet of applicant's property.

(c) Notice of public hearing shall also be sent to all of the following:

(i) Local tax assessing official or officials.

(ii) Township and county clerks.

(iii) Local building inspector or inspectors.

(iv) State, district, or county health department, if applicable.

(5) The zoning review board shall require that an application for a special use comply with all of the following:

(a) The purposes specified in R 281.52 are accomplished.

(b) A compelling reason exists to locate the proposed use within the district boundaries if contiguous property under the same ownership is available outside the district.

(c) The proposed use, in combination with any other existing use, will not be a detriment to the public health, safety, and welfare.

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

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

(8) A special use permit granted by the zoning review board shall be valid for 2 years from date of approval. If construction has not, in the opinion of the zoning review board and department, commenced and proceeded meaningfully at the end of the 2-year period, the zoning administrator shall notify the applicant, in writing, of the expiration of the special use permit.

(9) If the zoning review board and the department determine that the applicant has failed to comply with any of the requirements of these rules or the approved special use permit, the department may revoke the special use permit in accordance with the administrative procedures act, 1969 PA 306, MCL 24.201 to 24.328 .

(10) An application for a special use permit denied by the zoning review board shall not be submitted for reconsideration unless, in the opinion of the zoning administrator, the application is significantly different in scope from the previously denied application or new and significant facts and conditions exist which might result in approval upon resubmission.

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

(12) Before commencing construction of a special use, an applicant shall display the permit in a location easily visible from the nearest street or roadway until the purpose for which the permit was issued is completed.

History: 1979 AC; 2013 AACCS.

### **R 281.56 Zoning permit; site plan; certificate of zoning compliance.**

Rule 6. (1) A building or other structure shall not be erected, moved, added to, or structurally altered, and a land use shall not be commenced, without a zoning permit issued by the zoning administrator. A permit shall not be required for an exempt structure, use, or activity as specified in R 281.53.

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

- (a) A site plan drawn to scale, with the scale indicated.
- (b) Property dimensions, including river frontage.
- (c) Size, shape, use, and location of existing and proposed buildings or improvements, including distances to adjacent property boundaries and the river's edge.
- (d) Existing vegetation, including the location and type.
- (e) Adjacent streets and highways.
- (f) Parking areas.
- (g) Cross-section drawing showing height of buildings above water level and bluff heights.
- (h) Entrances to public streets.
- (i) Description of the building design, including proposed construction materials.
- (j) Drainage facilities.
- (k) Location and description of the method to dispose of sanitary waste.
- (l) Proposed landscaping.
- (m) Location of footpaths.
- (n) Signs proposed, including the size, location, and material.
- (o) North arrow.
- (p) Date of drawing.
- (q) Detailed site location map.



(f) Any additional information required by the zoning administrator or zoning review board to carry out the administrator's or board's duties. Additional information may include all of the following:

- (i) Soil types.
- (ii) Topography.
- (iii) Building elevations.
- (iv) Site photographs.
- (v) Anticipated traffic volume.
- (vi) Traffic patterns.

(3) A structure or lot for which a zoning permit has been issued shall not be occupied, and a use for which a zoning permit has been issued shall not commence, until the zoning administrator has issued a certificate of zoning compliance. The issuance of a certificate of zoning compliance shall not be construed as waiving any provision of these rules. A record of all certificates of zoning compliance issued shall be kept on file in the office of the zoning administrator. A certificate of zoning compliance shall not be interpreted as substitute for a certificate of occupancy required by local building code or local zoning permit.

History: 1979 AC; 2013 AACCS.

**R 281.57 Home occupation and home-based occupation; land alteration; lot; dwelling; building setback; impervious surface; drinking water supply well; height of structure; dock; river access stairway; boardwalk; natural vegetation strip; standards.**

Rule 7. (1) A home occupation or home-based occupation in a designated natural river area shall conform to all of the following:

(a) The use of the dwelling unit or related structure for a home occupation or home-based occupation shall be clearly incidental and subordinate to its use as a single-family residential dwelling.

(b) Equipment or a process shall not be used in a home occupation or home-based occupation if it creates excessive noise, vibration, fumes, odors, or electrical interference that is detectable to the normal senses off the premises.

(2) Land alteration shall conform to all the following requirements:

(a) Land alteration shall not occur within the natural vegetation strip, except placement of wood chips for a foot path as provided in R 281.53, on the face or crest of a bluff, in a wetland, in a floodplain, or below the ordinary high-water mark of the river unless associated with bank stabilization or fisheries habitat improvement activities.

(b) Draining a wetland is prohibited.

(c) A pond may be constructed if the pond meets the building setback established for the natural river district, spoils are placed in a non-wetland, non-floodplain area landward of the natural vegetation strip, and the pond is not connected to the river by any surface or subsurface drainage system. A pond shall not be constructed in a wetland or the 100-year floodplain.

(d) Bank stabilization or fisheries habitat activities shall comply with all of the following:

(i) Bioengineering practices shall be the preferred alternative for bank stabilization. Bioengineering practices used to stabilize stream banks utilize a combination of native plantings and natural or biodegradable materials to engineer shoreline protection that mimic and or enhance the natural landscape.

(ii) Rock used for bank stabilization above the seasonal low-water level of the stream shall be rounded cobble (fieldstone).

(iii) Quarried limestone or other natural angular stone shall not be exposed by seasonal low water level of the stream.

(iv) An in-stream fisheries habitat structure, such as a lunger, an overhead cover platform or similar structure, shall be, upon completion, indistinguishable from the natural surrounding landscape.

(v) A seawall, vertical bulkhead, gabion basket, concrete bag riprap, broken concrete, and other similar structures are prohibited.

(vi) The proposed project shall fulfill an identifiable need for erosion protection, bank stabilization, or fisheries habitat improvement.

(3) A proposed lot with a preliminary plat approval under the land division act, 1967 PA 288, MCL 560.101 to 560.293, but does not meet the dimensional requirements specified for each natural river on the effective date of these rules shall, upon final plat approval, be issued a zoning permit subject to these rules.

(4) A lot created before the effective date of these rules which does not possess sufficient land area or lot width may be used for the purposes described and subject to the requirements in these rules.

(5) A zoning permit, special use permit, or variance will not be granted for any activity on a lot created after the effective date of these rules if the new lot does not meet the provisions of these rules. A new lot shall not be created if construction of a road/stream crossing is required to provide access to the only buildable area.

(6) Only 1 single-family dwelling or short-term rental facility shall be permitted per lot unless 1 of the following applies:

(a) The property owner submits a site plan for the lot showing theoretical property lines for individual lots that meet all natural river zoning standards, and locate any additional single-family dwelling or short-term rental facility and appurtenance as if the property were divided into those separate lots.

(b) For each single-family dwelling or short-term rental facility placed in a cluster-type setting that does not meet the requirements in subdivision (a) of this subrule, a portion of the lot containing an area equal to a newly created separate legal lot as described in these rules will be made subject to a permanent conservation easement or deed restriction prohibiting construction of any structure within that portion of the lot. A conservation easement will be sold, donated, or otherwise conveyed, in writing in perpetuity, to a land conservancy, local unit of government, or the state. The agency acquiring the conservation easement shall agree, in writing in perpetuity, to refrain from development of the land.

(7) If a proposed single-family dwelling or short-term rental facility is on a vacant, legal, nonconforming parcel that is between and adjacent to 2 parcels that contain a legal single-family dwelling or short-term rental facility that does not meet the minimum building setback standard, and the adjacent single-family dwelling or short-term rental facility are within 150 feet of each other, a minor variance to the building setback standard may be granted that will

result in the new single-family dwelling or short-term rental facility being located no closer to the river than the adjacent single-family dwelling or short-term rental facility that is farthest from the high-water mark or landward of the natural vegetation strip or 75 feet from the high-water mark, whichever is greater, and the single-family dwelling or short-term rental facility shall not be placed on lands subject to flooding or in any wetland area. This subrule does not apply to an appurtenance, accessory building, or other structure. Any development shall be in conformance with the bluff development standards established for each designated natural river in these rules.

(8) A drinking water supply well for a single family dwelling or short-term rental facility shall not be located in the natural vegetation strip or closer to the river than the structure it serves. A drinking water supply well not meeting the requirements of this rule requires a minor variance subject to R 281.60.

(9) The maximum percentage of impervious surface permitted on a lot is as follows:

(a) For a lot with less than 10,000 square feet of area, not more than 35% of the land surface may be covered by an impervious surface.

(b) For a lot with between 10,000 square feet and 40,000 square feet of area, not more than 25% of the land surface may be covered by an impervious surface.

(c) For a lot with between 40,001 square feet and 80,000 square feet of area, not more than 20% of the land surface may be covered by an impervious surface.

(d) For a lot greater than 80,000 square feet in area, not more than 10% of the land surface may be covered by an impervious surface.

(10) A structure shall not be more than 35 feet in height measured from the original surface elevation.

(11) A dock shall conform to all of the following:

(a) A dock shall not be more than 48 square feet in area, with not more than 4 feet of the dock extending over the edge of the river.

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

(12) A stairway constructed to allow river access shall conform to all of the following standards:

(a) A stairway is not permitted unless no other reasonable and safe access to the river exists.

(b) A stairway shall be low-profile, not more than 4 feet wide, and constructed without stairs being recessed into the ground surface, except if site and soil conditions dictate that a recessed stairway is appropriate.

(c) A landing shall not be constructed unless required by building code, in which case the landing shall be the minimum number and size required by building codes.

(d) Not more than 1 handrail shall be associated with a stairway.

(e) A stairway shall be constructed using natural materials.

(f) A stairway shall be located and maintained to blend with the natural surroundings, and where removal of vegetation in the natural vegetation strip can be minimized.

(13) A boardwalk associated with a footpath to the river's edge shall conform to all of the following:

(a) A boardwalk shall be placed only in an area that is generally too wet to be traversed without significant disturbance of the soils.

(b) A boardwalk and all supports shall be constructed of natural materials.

(c) A boardwalk shall not be more than 3 feet wide.

(d) A boardwalk shall not include any railing.

(e) The top of a boardwalk shall not be more than 12 inches above grade.

(14) Within the natural river district, a natural vegetation strip shall be maintained that includes the river and all lands within the area abutting the river's edge for each designated natural river as specified in these rules. Trees and shrubs may be pruned over not more than a 50-foot width for a filtered view of the river. The natural vegetation strip is also subject to all of the following:

(a) Felling of a tree or removal of other vegetation in the natural vegetation strip is prohibited except for the following:

(i) An unsafe tree, noxious plant, or shrub, such as poison ivy and poison sumac, may be removed without a zoning permit.

(ii) Select tree removal or trimming for forest management practices or disease and insect control, and clearing of vegetation to the minimum width required for public utility primary electric distribution lines and service lines for permitted uses is permitted upon approval of the zoning administrator in consultation with local conservation district staff, if the activity is in keeping with the goals and objectives of the natural river plan.

(b) Mowing is prohibited in the natural vegetation strip except in an area maintained in a mowed condition before the effective date of these rules or to establish a single footpath to the river not to exceed 4 feet wide.

(c) Any island in any stream segment is subject to the natural vegetation strip standards as described in these rules.

(d) Camping, except for tent camping, is not permitted in the natural vegetation strip.

(e) A motorized vehicle shall not be operated off road in the natural vegetation strip.

History: 1979 AC; 2013 AACCS.

### **R 281.58 Bridges.**

Rule 8. (1) A bridge for any designated natural river shall conform to all of the following:

(a) An existing bridge that is destroyed by any means, whether on a tributary or mainstream segment, may be replaced. On a mainstream segment or a tributary, subject to mainstream development standards, a destroyed pedestrian bridge may not be replaced with a vehicle bridge. An application for replacement of a destroyed bridge shall be submitted within 12 months of destruction or the replacement bridge shall be considered a new bridge and shall be subject to the standards for a new bridge.

(b) A replacement bridge on any mainstream segment or tributary subject to mainstream development standards shall span the bankfull channel, have a minimum clearance of 5 feet between the ordinary high-water mark and the bottom of the bridge deck and/or deck supports other than abutments, and be a bottomless structure.

(c) A permanent bridge replacing a bottomless bridge on any tributary not subject to mainstream development standards shall span the bankfull channel and be a bottomless structure, and in the case of any pedestrian bridge, constructed in order to exclude the use by any wheeled or tracked motorized vehicle or snowmobile.

(d) A permanent bridge replacing a bridge without a natural bottom on a tributary not subject to mainstream development standards shall be recessed and span the bankfull

channel, and, in the case of any pedestrian bridge, be constructed to exclude the use by any wheeled or tracked motorized vehicle or snowmobile.

(e) A new bridge of any type is prohibited on any mainstream segment and on any tributary subject to mainstream development standards.

(f) A new bridge is not permitted on any designated river segment on any parcel that is created after the effective date of these rules, other than on the original parent parcel.

(g) A new pedestrian bridge may be permitted on a tributary not subject to mainstream development standards provided the lands connected by a new bridge are collectively owned by 1 person.

(h) A new permanent bridge on a tributary not subject to mainstream development standards shall span the bankfull channel and be a bottomless structure and, in the case of a pedestrian bridge, be constructed to exclude the use by any wheeled or tracked motorized vehicle or snowmobile.

(i) A new permanent vehicle bridge on a tributary not subject to mainstream development standards requires a special use permit as specified in R 281.55.

(j) Only 1 bridge is permitted to access a portion of land that is otherwise inaccessible from the owner's contiguous property.

(k) A temporary vehicle bridge on a tributary not subject to mainstream development standards for the purpose of access for timber harvest may be permitted provided it is constructed in a manner that minimizes impacts to the stream and aquatic organisms and shall be removed immediately after timber harvesting activities. All disturbed areas in the natural vegetation strip shall be revegetated with native vegetation, any fill placed shall be removed, and the land shall be returned to its original grade as soon as possible after removal of the bridge.

History: 1979 AC; 2013 AACCS.

### **R 281.59 Nonconforming lot, use, structure.**

Rule 9. (1) It is recognized that there exists, within the natural river district, lots, structures, and uses of land and structures which were lawful before these rules were promulgated or amended and which would be prohibited, regulated, or restricted pursuant to these rules. It is the intent of these rules to permit legal nonconforming uses, structures, or lots to continue until they are brought into conformity and, in certain instances, to permit the limited expansion of certain legal nonconforming uses and structures.

(2) If the combination of 2 or more contiguous nonconforming vacant lots owned by the same person results in an increase in conformance with the dimensional requirements of these rules, the lots shall be combined for use unless the lots are within a plat established before the effective date of these rules wherein more than 75% of the platted lots contain a single-family dwelling.

(3) The zoning administrator shall approve an application for a zoning permit for a principal use on a legal nonconforming lot of record subject to both of the following:

(a) The principal use complies with these rules, except the minimum lot width and area requirements.

(b) If the non-conforming lot is vacant, the applicant or owner of the subject lot does not own other contiguous vacant properties which if combined with the nonconforming lot would result in increasing the conformity of the lot.

(4) An application for a zoning permit for a principal use on a legal nonconforming lot of record that is not in compliance with R 281.59 (3) shall be treated as a variance pursuant to R 281.60.

(5) If on the effective date of these rules a lawful use of land exists that is made unlawful under these rules, the use may be continued if it remains otherwise lawful, subject to all of the following:

(a) The nonconforming use shall not be enlarged, increased, or extended without a land use variance under R 281.60.

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

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

(6) If a lawful structure exists on the effective date of these rules that is made unlawful under these rules, the structure may remain if otherwise lawful, subject to all of the following:

(a) The structure may not be altered in a way that increases its nonconformity, such as expanding toward the ordinary high-water mark or increasing the height above the maximum height standard. The ground floor area of any legal nonconforming single-family dwelling or short-term rental facility may be expanded by up to 50%, or up to 75% if a variance for not more than a 25% reduction in the building setback standard is granted, of the existing ground floor area cumulative from the date of nonconformance, or to the minimum extent necessary to comply with local standards for minimum legal floor area for dwellings, whichever is greater, if the expansion does not increase the nonconformity of the dwelling. Any alteration of a legal nonconforming dwelling must, to the extent possible, be in compliance with all setback and other building requirements. Any expansion of a lawful, nonconforming dwelling, including construction of additional stories, shall be treated as a variance under R 281.60. Construction of a new legal nonconforming accessory building or expansion of the ground floor area of an existing legal nonconforming accessory building is considered to be an expansion of the ground floor area of an associated legal nonconforming single-family dwelling or short-term rental facility.

(b) Expansion of a legal nonconforming single-family dwelling or short-term rental facility may be permitted by the zoning administrator as a minor variance if any of the following apply:

(i) Part or all of the expansion is located within the natural vegetation strip, expansion of the dwelling is landward of the existing structure, the expansion is not more than a 50% increase in ground floor area cumulative from the date of nonconformance, the height of the expansion is not greater than the height of the original dwelling and the expansion is not located in a wetland or the 100-year floodplain.

(ii) All of the expansion is located landward of the natural vegetation strip, expansion of the dwelling is not closer to the river than the closest point of the existing dwelling's foundation, the expansion is not more than a 50% increase in ground floor area (or 75% if the variance is not more than a 25% reduction in the building setback standard) cumulative from the date of nonconformance, the height of the expansion is not greater

than the height of the original dwelling and the expansion is not located in a wetland or the 100-year floodplain.

(iii) All of the expansion is in compliance with the minimum building setback standard, the expansion is not more than a 100% increase in the enclosed ground floor area of the dwelling cumulative from the date of nonconformance and the expansion is not located in a wetland or the 100-year floodplain.

(c) Any legal nonconforming structure, other than a dam, destroyed by any means except willful destruction by the property owner or his or her agent, to an extent that is more than 50% of its current appraised value, restoration of the structure shall be treated as a variance. The zoning review board or zoning administrator shall appoint a qualified individual to determine whether the structure has been destroyed to an extent that is more than 50% of its current appraised value. Restoration of the structure may be permitted by the zoning administrator, as a minor variance if all of the following conditions exist:

(i) The structure is not located within a floodplain or wetland.

(ii) The presence of the nonconforming structure will not lead to accelerated bank erosion or other material degradation of the river.

(iii) The restored structure has the identical exterior dimensions, configuration, and maximum height of the destroyed structure.

(iv) Application for permit to restore a damaged structure is made within 12 months of the date of damage. An extension may be granted if the property is held in probate, an insurance settlement related to the damage is in dispute, or a criminal investigation related to the damage is in progress.

(v) A structure restored under the provisions of this rule shall be considered a non-conforming structure.

(vi) If any of the provisions of this rule cannot be met, restoration of a destroyed nonconforming structure shall require a variance as provided in R 281.60.

(d) If a legal nonconforming structure has deteriorated or is willfully destroyed by the property owner or owner's agent to an extent that restoration costs are more than 50% of its current appraised value, the property owner shall meet all development standards in these rules to the greatest extent possible when constructing any replacement structure and shall require a variance as provided in R 281.60. The zoning review board or zoning administrator shall appoint a qualified individual to determine whether the structure has been destroyed to an extent that is more than 50% of its current appraised value.

(e) If a variance is granted for a new single-family dwelling or short-term rental facility to replace a single-family dwelling or short-term rental facility that has been destroyed to an extent that is more than 50% of its current appraised value, a variance to construct a larger replacement structure shall be considered to be the same as a variance to expand the original structure for the purposes of determining maximum expansion of the original nonconforming structure.

(f) A variance shall not be granted for a new nonconforming structure to replace a destroyed nonconforming structure that would result in the new structure being more nonconforming than the destroyed structure, such as moving the structure closer to the ordinary high-water mark or increasing the height above the maximum height standard.

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

conformity with these rules. Moving a legal nonconforming structure requires a zoning permit and may require a variance.

(h) Reconstruction of a dam that is breached or destroyed by more than 50% of its replacement costs requires a land use variance. If a variance is approved, reconstruction of the dam shall be subject to all of the following provisions:

(i) Reconstruction of a dam shall comply with applicable regulations and standards in effect at the time of application for replacement.

(ii) Application for reconstruction of a dam shall be received within 1 year of destruction.

(iii) A reconstructed dam shall be built at the same location as the original dam and with a height not greater than the original dam height.

(iv) A bottom discharge and fish passage facility shall be provided for a reconstructed dam where appropriate.

History: 1979 AC; 2013 AACCS.

### **R 281.60 Variance and variance hearings.**

Rule 10. (1) A dimensional variance from any standard established in these rules may be granted by the zoning review board after a public hearing or, by the zoning administrator as provided in these rules, to allow a modification from a standard that establishes an area, yard, height, floor space, frontage, setback, or similar numerical restriction, but only after evidence establishes that a practical difficulty exists in complying with these rules. A variance shall be granted only when it is consistent with the general purposes and intent of these rules. Work authorized by the variance shall not commence until a permit is issued by the zoning administrator.

(2) The zoning review board or zoning administrator shall consider the following factors to determine if a practical difficulty exists in order to comply with these rules as specified in subrule (1) of this rule:

(a) A condition exists on the property that prevents the development standards from being met.

(b) The practical difficulty cannot be overcome by some reasonable method other than a variance.

(c) If the practical difficulty cannot be overcome by some reasonable method other than a variance, the variance shall meet the standards to the greatest extent possible.

(d) The variance will not cause a substantial change in the character of the area.

(e) In view of the manner in which the practical difficulty arose, the interests of justice will be served by allowing the variance.

(f) The practical difficulty is due to circumstances which are unique to the subject property and not self created.

(g) The variance shall not result in an adverse effect on the environment.

(3) The public hearing and review of a variance request by the zoning review board may be waived for a minor dimensional variance for a principal use. Such a variance application shall be processed by the zoning administrator, who shall consider the factors of subrule (2) of this rule in making a determination. The zoning administrator shall prepare a written finding of fact that details the reasons for approval or denial of the minor variance request. A minor variance is defined as a reduction in setback for a



principal use on any lawful lot that is not more than 25% of the normal dimensional requirements, a certain variance to expand a legal nonconforming dwelling or restore a destroyed legal nonconforming structure as described in R 281.59 and a setback variance for a single-family dwelling and short-term rental facility, as described in R 281.57.

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

(a) The property cannot be used as zoned.

(b) The unnecessary hardship results from the application of these rules to the subject property.

(c) The unnecessary hardship is suffered by the subject property only and not shared by other property owners.

(d) The unnecessary hardship is not self created.

(5) Upon determining that an unnecessary hardship for a land use variance exists, the zoning review board shall determine that the proposed use meets all of the following:

(a) The proposed use shall be in accordance with the natural river plan.

(b) The proposed use will be designed, constructed, operated, and maintained consistent with the existing or intended character of the natural river district and the proposed use will not change the character of the natural river district.

(c) The proposed use will not involve activities, processes, materials, equipment, and conditions of operation that may be detrimental to any person, property, or the environmental quality of the natural river district, such as excessive noise, smoke, fumes, glare, odors, or outdoor storage of materials.

(d) The proposed use will be consistent with the intent and purpose of these rules.

(e) The proposed use or a structure to be used will not cause an overcrowding of the land or an undue concentration of population that may result in degradation to the natural river district.

(f) The proposed use lot area is sufficient, appropriate, and adequate for the proposed use and the reasonable anticipated operation and expansion thereof.

(6) The economic return factor shall be considered only if the applicant has been deprived of all beneficial use of subject property under existing zoning. In determining whether reasonable use may be made of the property as zoned, a reasonable economic return may be considered, but only if the applicant is in compliance with the provisions of subrules (1) to (5) of this rule.

(7) Upon receipt of a variance application, the zoning review board shall conduct a public hearing on the variance application, except in the case of a minor variance application. The application, public hearing, and notice procedure shall follow the procedures in R 281.55. The zoning review board shall record all its proceedings, which shall include minutes of meetings, findings, and actions taken, including the final order. Reasons for the decision shall be in writing. The zoning review board shall record the vote of each member on each question. The zoning review board shall record if a member is absent or fails to vote. All records shall be open for public inspection. The concurring vote of at least a majority of the eligible voting members of the zoning review board is required to grant a dimensional variance. The concurring vote of at least a two-thirds majority of the eligible voting members of the zoning review board is required to grant a

land use. If the required concurring vote for approval of a variance is not achieved, the variance is denied.

(8) A variance shall create a nonconforming land use, lot, or structure that is subject to R 281.59.

(9) The zoning review board or the zoning administrator may impose permit conditions, in writing, before granting a variance. The zoning permit issued for the variance is not valid until the applicant accepts the conditions in writing.

(10) An application for a variance denied by the zoning review board or zoning administrator shall not be resubmitted for consideration unless significantly different in scope or new and significant facts and conditions exist from the previously denied application.

History: 1979 AC; 2013 AACCS.

Editor's Note: An obvious error in R 281.60 was corrected at the request of the promulgating agency, pursuant to Section 56 of 1969 PA 306, as amended by 2000 PA 262, MCL 24.256. The rule containing the error was published in *Michigan Register*, 2013 MR 18. The memorandum requesting the correction was published in *Michigan Register*, 2013 MR 19.

### **R 281.61 Zoning administrator; zoning review board; appointment; duties.**

Rule 11. (1) The zoning administrator shall do all of the following:

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

(b) Issue a certificate of zoning compliance.

(c) Conduct site inspection to ensure compliance with these rules.

(d) Pursue resolution of a violation of these rules.

(e) Issue any authorized permit and certificate of zoning compliance.

(f) Identify and record information relative to any nonconformity.

(g) Maintain files of applications, permits, and other relevant documents.

(h) Schedule meetings and hearings for, and provide assistance to, the zoning review board.

(i) Act upon a minor variance as permitted by R 281.60.

(j) Act upon a request for expansion or reconstruction of a non-conforming structure as permitted by R 281.59.

(2) In establishing the zoning review board, the department shall cooperate with and seek the advice of all of the following affected entities:

(a) Townships and counties.

(b) Conservation districts.

(c) Property owners' associations.

(d) Other interested local organizations and citizens.

(3) The department shall request that each affected township appoint to the zoning review board 1 member and 1 alternate member to represent township interests on matters within its jurisdiction.

(4) The department shall request that each affected county appoint to the zoning review board 2 members, 1 of which shall be a county official who works in planning, zoning,

public health, soil erosion and sedimentation control, or a related field, and 2 alternate members, to represent its interests on matters within its jurisdiction.

(5) The department shall request that each affected conservation district appoint to the zoning review board 1 member and 1 alternate member to represent its interests on matters within its jurisdiction.

(6) County, township, and conservation district representatives appointed to the zoning review board shall vote only on those matters within their respective jurisdictions. If affected townships, counties, or conservation districts do not appoint a member to the zoning review board within 60 days from the written request by the department, the department may appoint a member.

(7) The department shall appoint 1 department representative and 1 alternate who shall vote on all matters before the zoning review board.

(8) The department shall appoint 2 citizen representatives and 1 alternate who shall vote on all matters before the zoning review board.

(9) A member appointed as an alternate may be called to sit as a regular member in the absence of a regular member. An alternate member may also be called to serve in place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reason of conflict of interest. An alternate member shall serve in the case until a final decision has been made. An alternate member shall have the same voting rights as a regular member of the zoning review board.

(10) The zoning review board shall hold at least 1 meeting annually for such purposes as adopting or amending rules of procedure, establishing officers, educational purposes, or to conduct any manner of business as provided for by these rules.

(11) The zoning review board shall do all of the following:

- (a) Adopt rules of procedure that govern the transaction of its business.
- (b) Act upon requests for special use permits.
- (c) Act upon certain dimensional and land use variances pursuant to R 281.60.
- (d) Act upon requests for expansion or reconstruction of non-conforming structures as permitted by R 281.59.
- (e) Interpret the official zoning map pursuant to R 281.63.

History: 1979 AC; 2013 AACCS.

### **R 281.62 Boundaries and permitted use; precedence of local zoning ordinance over rules; local government reporting.**

Rule 12. (1) The department may make amendments and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner following an administrative hearing held pursuant to the administrative procedures act, 1969 PA 306, MCL 24.271 to 24.287, if implementation of the amendment, or supplement does not contravene the purposes of these rules pursuant to R 281.52.

(2) A copy of any amendment or supplement to boundary shall be sent to all of the following affected entities:

- (a) County register of deeds.
- (b) Township and county clerks.
- (c) Local building code department.
- (d) Local soil erosion and sedimentation control enforcement agency.

- (e) Conservation district.
- (f) County drain commissioner.
- (g) Zoning review board members.

(3) A local zoning ordinance that meets all of the requirements of natural rivers, part 305, 1994 PA 451, MCL 324.30501 to 324.30515 and the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702, may take precedence over these rules. If a local zoning ordinance does not meet all of the requirements of natural rivers, part 305, 1994 PA 451, MCL 324.30501 to 324.30515 or if the local ordinance becomes inapplicable to the land area encompassed by the natural river district through court action or for any other reason, these rules apply. Upon request, the department shall assist a local unit of government in developing an ordinance that meets the requirements of natural rivers part 305, 1994 PA 451, MCL 324.30501 to 324.30515. The department shall determine if a local ordinance meets all of the requirements of natural rivers, part 305, 1994 PA 451, MCL 324.30501 to 324.30515 and shall notify the local unit of government of that determination in writing. If the department withdraws approval of a local zoning ordinance, these rules shall apply.

(4) A local unit of government administering a local zoning ordinance approved by the department shall comply with the following:

(a) A copy of all special use and variance applications received by the local unit of government shall be provided to the state natural rivers zoning administrator not less than 15 days before the application will be considered by the zoning board of appeals or planning commission. A copy of the local zoning administrator's decision for a minor variance application, with permit and approved site plan, if applicable, shall be sent to the state natural rivers zoning administrator.

(b) Each local unit of government shall provide an annual report, in writing, to the state natural rivers zoning administrator by March 1 of each year for the preceding year natural rivers zoning activity. The annual report shall include, at minimum, all of the following information:

(i) Total number of natural river district land use/zoning permit applications submitted to the local unit of government during the calendar year.

(ii) Total number of natural river district variance applications received during the calendar year.

(iii) Total number of natural river district special use applications received during the calendar year.

(iv) Summary of all decisions made by the zoning board of appeals or planning commission on applications for projects in the natural rivers district during the calendar year.

(v) Summary of all outstanding violations of natural rivers standards and the actions taken by the local unit of government to gain compliance at the site during the calendar year.

(5) If the local zoning ordinance no longer meets the requirements of natural rivers part 305, 1994 PA 451, MCL 324.30501 to 324.30515 or the department determines the local unit of government has failed to administer the natural river ordinance or has failed to meet the requirements of subrule (4), then these rules apply and the department shall notify the local unit of government of that determination in writing.

History: 2013 AACCS.

**R 281.63 Interpretation of boundaries; filing of zoning map.**

Rule 13. (1) If uncertainty exists with respect to the boundaries of the district as shown on the zoning map and as described in these rules, the zoning administrator shall interpret the district boundaries.

(2) If a district boundary of a designated stream begins or ends at a culvert, bridge, dam or other structure, the district boundary shall include the structure and any right-of-way associated with the structure.

(3) The department shall record a certified copy of the natural river zoning map with all of the following affected entities:

- (a) State tax commission.
- (b) Local tax assessing officer.
- (c) Township and county clerks.
- (d) County drain commissioner.
- (e) Local building code department.

History: 2013 AACCS.

**R 281.64 Compliance; violation; remedy.**

Rule 14. (1) A structure or land shall not be used or occupied, and a structure or part thereof shall not be erected, constructed, reconstructed, moved, or altered, unless the structure or land is in compliance with these rules. The department shall not waive any right or remedy against any person who violates these rules if the violation was committed in reliance on an authorization erroneously given in violation of any provision of these rules. Any authorized permit, variance, or action that is contrary to these rules is invalid from the date of the authorization.

(2) A permit or variance shall not be issued by the department for any structure or use on a parcel of land upon which an unresolved violation of any of these rules exist.

(3) In addition to any other remedy, the department may initiate appropriate action or proceeding to prevent, correct, or abate any rule violation or any threatened violation.

History: 2013 AACCS.

**R 281.65 Appeal.**

Rule 15. An aggrieved party may appeal the decision of the zoning administrator or zoning review board and shall be granted an administrative hearing if a petition is filed with the department within 60 days after notice of decision. The administrative hearing shall be conducted pursuant to the administrative procedures act, 1969 PA 306, MCL 24.271 to 24.287.

History: 2013 AACCS.

**R 281.66 Severability.**

Rule 16. If the provisions of these rules are declared by a court to be unconstitutional or invalid, such ruling shall not affect the validity of the remaining provisions of these rules and the provisions of these rules shall be severable.

History: 2013 AACCS.

**R 281.70 Jordan river system boundaries, effective date.**

Rule 20. (1) The boundaries of the Jordan river natural river district shall be as described in these rules and as depicted on the certified Jordan river natural river zoning map with an effective date of September 25, 1974. The Jordan river natural river zoning district comprises an area which is described as follows:

(a) The mainstream of the Jordan river from the west line of section 22, T31N, R5W to Roger's bridge in section 35, T32N, R7W.

(b) Bennett creek from the outfall of Mud lake in section 15, T31N, R7W to its confluence with the Jordan river.

(c) Todd creek from Carson road from the west line of section 31, T32N, R6W to its confluence with the Jordan river.

(d) Bartholemew creek from its source in section 14, T31N, R7W to its confluence with the Jordan river.

(e) Severance creek from its source in section 5, T31N, R6W to its confluence with the Jordan river.

(f) Webster creek from its source in section 8, T31N, R6W to its confluence with the Jordan river.

(g) Lilak creek from its source in section 13, T31N, R7W to its confluence with the Jordan river.

(h) Martin creek from its source in section 19, T31N, R6W to its confluence with the Jordan river.

(i) Balster-Mill creek from its source in section 15, T31N, R6W to its confluence with the Jordan river.

(j) Unnamed stream from its source in section 21, T31N, R6W to its confluence with Balster-Mill creek.

(k) Sutton creek from the Old state road crossing in section 22, T31N, R6W to its confluence with the Jordan river.

(l) Cokirs creek from its source in section 24, T31N, R7W to its confluence with the Jordan river.

(m) Scotts creek from its sources in section 28, T31N, R6W to its confluence with the Jordan river.

(n) Tutstone creek from its source in section 33, T31N, R6W to its confluence with the Jordan river.

(o) Unnamed stream from its source in section 33, T31N, R6W to its confluence with the Jordan river.

(p) Green river from its source in section 27, T30N, R6W to its confluence with the Jordan river.

(q) Stevens creek from its source in section 16, T30N, R6W to its confluence with the Jordan river.

(r) Unnamed stream from its source in section 35, T31N, R6W to its confluence with the

Jordan river.

(s) Landslide creek from its source in section 14, T30N, R6W to its confluence with the Jordan river.

(t) Cascade creek from Alba road in section 22 T30N, R6W to its confluence with Landslide creek.

(u) Section 13 creek from its source in section 13, T30N, R6W to its confluence with the Jordan river.

(v) Six tile creek from its source in section 6, T30N, R5W to its confluence with the Jordan river.

(w) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (v) of this subrule.

(x) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (w) of this subrule.

History: 2013 AACCS.

### **R 281.71 Jordan River system principal use; natural vegetation strip.**

Rule 21. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility, including accessory buildings and appurtenances, with the following provisions:

(i) The minimum building setback shall be not less than 200 feet from the ordinary high-water mark on the mainstream and not less than 100 feet on all designated tributaries, except as described in R 281.57.

(ii) Building shall not take place on land that is subject to flooding or in any wetland area.

(iii) The natural contour of the face and crest of a bluff shall not be altered.

(iv) The land between the crest of a bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field shall not be located less than 200 feet from the ordinary high-water mark on the mainstream and 100 feet from the ordinary high-water mark on all designated tributaries and not less than 100 feet from any surface or subsurface drain that discharges into the Jordan river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and not located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, shall not be located less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Jordan river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are prohibited unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries, provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after September 25, 1974, with the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) Has at least 150 feet of river frontage, unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river and is at least 150 feet wide at the minimum building setback line.

(iii) Contains at least 50,000 square feet of area within the natural river district. Any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage and the front line of the parcel is greater than 150 feet from the river's edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(iv) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.

(v) A lot that exists on September 25, 1974, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after September 25, 1974, shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to the provisions of R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to Rule 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river's edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.



(2) Within the Jordan river natural river district, a natural vegetation strip that includes the river and all lands within 100 feet of the ordinary high-water mark shall be maintained on each side of the Jordan river mainstream. A restrictive cutting belt that includes the river and all lands within 25 feet of the ordinary high-water mark shall be maintained on each side of all designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

History: 2013 AACCS.

**R 281.80 Betsie river system boundaries.**

Rule 30. The boundaries of the Betsie river natural river district shall be as described in these rules and as depicted on the certified Betsie river natural river zoning map with an effective date of June 11, 1977. The Betsie river natural river zoning district comprises an area described as follows:

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

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

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

(d) All lakes, ponds, impoundments, or other surface water bodies not traditionally considered rivers, streams, or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (c) of this rule.

(e) The lands lying within 400 feet of the river's edge described in subdivisions (a) to (d) of this rule.

History: 2013 AACCS.

**R 281.81 Betsie river system principal uses; natural vegetation strip.**

Rule 51. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with the following provisions:

(i) The minimum building setback shall be not less than 200 feet from the ordinary high-water mark on the mainstream and 100 feet on the Little Betsie river and Dair creek, except as described in R 281.57.

(ii) On the mainstream, the setback may be decreased 5 feet for every 1 foot of rise in bank height above 5 feet above the ordinary high-water mark, to a minimum of 150 feet from the ordinary high-water mark.

(iii) A dwelling shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream.

(iv) Building shall not take place on land that is subject to flooding or in any wetland area.

(v) The natural contour of the face and crest of the bluff shall not be altered.

(vi) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to the provisions of R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all of the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field located not less than 150 feet from the ordinary high-water mark and not less than 100 feet from any surface or subsurface drain that discharges into the Betsie river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and not located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, shall be located not less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Betsie river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after June 11, 1977, with all the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) Has at least 200 feet of river frontage, unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and is at least 200 feet wide at the minimum building setback line.

(iii) Contains at least 50,000 square feet of area within the natural river district. Any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage and the front line of the parcel is greater than 150 feet from the river's edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(iv) Has sufficient depth and upland area to accommodate the required building setbacks under this rule.

(v) A lot that exists on June 11, 1977, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Lots that are created after June 11, 1977, shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to R 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river's edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the Betsie river natural river district, a natural vegetation strip that includes the river and all lands within 50 feet of the ordinary high-water mark shall be maintained on each side of the Betsie river mainstream and all designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

History: 2013 AACCS.

#### **R 281.90 White river system boundaries.**

Rule 40. The boundaries of the White river natural river district shall be as described in these rules and as depicted on the certified White river natural river zoning map with an effective date of May 5, 1979. The White river natural river zoning district comprises an area which is described as follows:

(a) The mainstream of the White river from 8-mile road, in section 21, T15N, R12W, downstream to US-31 in section 22, T12N, R17W, excluding the following: from the north city limit of White Cloud down to old M-20 west of the city, from the east city limit of Hesperia down to the west city limit and those portions within the city limits of Whitehall and Montague.

(b) Mullen creek from 6-Mile road in section 34, T15N, R12W to its confluence with the White river.

(c) Five Mile creek from Pine avenue in section 18, T14N, R11W to its confluence with the White river.

(d) Flinton creek from Pine avenue in section 31, T14N, R11W to its confluence with the White river.

(e) Wrights creek from Comstock road in section 33, T14N, R14W to its confluence with the White river.

(f) Mena creek from Minnie lake dam in section 5, T14N, R13W to its confluence with the White river.

(g) Martin creek from Warner avenue in section 2, T14N, R13W, to its confluence with the White river.

(h) East Branch Heald creek from Crowell road in section 32, T15N, R13W to its confluence with Martin creek.

(i) Braton creek from Wilkie road in section 24, T13N, R15W to its confluence with the White river.

- (j) Cushman creek from 192nd avenue in section 26, T13N, R15W to its confluence with the White river.
- (k) Skeels creek from 192nd avenue (Holton Duck Lake road) in section 11 T12N, R15W to its confluence with the White river.
- (l) North Branch White river from 198th avenue in section 11, T14N, R15W to its confluence with the White river.
- (m) Robinson creek from Woodrow road in section 12, T14N, R17W to its confluence with the North Branch.
- (n) Swinton and Osborn (Cobmoosa) creek from Filmore road in section 26, T15N, R16W to its confluence with the North Branch.
- (o) Newman creek from 132nd avenue in section 4, T13N, R16W to its confluence with the North Branch.
- (p) Knutson creek from Garfield road in section 32, T14N, R15W downstream to its confluence with the North Branch.
- (q) Sand creek from outlet of Dressler lake in section 1, T13N, R17W to its confluence with the White river.
- (r) Carlton creek from Arthur road in section 4, T13N, R17W to its confluence with the White river.
- (s) Mud creek from outlet of Heitman lake in section 24, T13N, R17W to its confluence with Carlton creek.
- (t) Carleton (Landford) creek from Walsh road in section 10, T12N, R17W to its confluence with the White river.
- (u) Silver creek from Silver creek road in section 14, T12N, R17W to its confluence with the White river.
- (v) Cleveland creek from Russell road in section 16 T12N, 16W to its confluence with the White river.
- (w) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (v) of this rule
- (x) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (w) of this rule.

History: 2013 AACCS.

**R 281.91 White river system principal uses; natural vegetation strip.**

Rule 41. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with all the following provisions:

(i) The minimum building setback shall be not less than 150 feet from the ordinary high-water mark on the mainstream from 8-mile road in the northwest corner of section 28, T15N, R12W to Lutes bridge (Baldwin road), T14N, R13W and from Podunk bridge between sections 9 and 10, T13N, R15W to US 31 in Muskegon county except as described in R 281.57.

(ii) The setback may be decreased 5 feet for every 1 foot of rise in bank height above 7 feet above the ordinary high-water mark, to a minimum of 100 feet from the ordinary high-water mark.

(iii) The minimum building setback shall be not less than 100 feet from the ordinary high-water mark on the mainstream from Lutes bridge (Baldwin road) to Podunk bridge and on all designated tributaries.

(iv) The setback may be decreased 5 feet for every 1 foot of rise in bank height above 7 feet above the ordinary high-water mark, to a minimum of 75 feet from the ordinary high-water mark.

(v) A dwelling shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream.

(vi) Building shall not take place on land that is subject to flooding or in any wetland area.

(vii) The natural contour of the face and crest of the bluff shall not be altered.

(viii) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field located not less than 100 feet from the ordinary high-water mark and not less than 50 feet from any surface or subsurface drain that discharges into the White river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, located not less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the White river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after May 5, 1979, with all the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) Has at least 200 feet of river frontage, unless a riverfront “common area” subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and is at least 200 feet wide at the minimum building setback line.

(iii) Contains at least 50,000 square feet of area within the natural river district. Any “common area” created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage and the front line of the parcel is greater than 150 feet from the river’s edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(iv) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.

(v) A lot that exists on May 5, 1979, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after May 5, 1979, shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to the provisions of R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to R 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river’s edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the White river natural river district, a natural vegetation strip that includes the river and all lands within 50 feet of the ordinary high-water mark shall be maintained on each side of the White river mainstream and all designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

History: 2013 AACS.

### **R 281.100 Huron River system boundaries.**

Rule 50. The boundaries of the Huron river natural river district shall be as described in these rules and as depicted on the certified Huron river natural river zoning map with an effective date of June 2, 1980. The Huron river natural river zoning district comprises an area that is described as follows:

(a) The mainstream of the Huron river from Kent lake dam in section 1, T1N, R6E to the west line of section 32, T1N, R5E excluding Strawberry, Gallagher, Loon, which is also known as Long or Little Gallagher, and the 2 Whitewood lakes; and from John Flook dam in section 1, T1S, R4E to the Scio-Ann Arbor township line in Washtenaw county, excluding the incorporated village of Dexter.

(b) Davis creek, which is also called the Southeast Branch of the Huron river, Livingston county, Green oak township, from the outfall of Sandy Bottom lake in section 27, T1N, R6E to its confluence with the Huron river.

(c) Arms creek, from the confluence of the 2 Branches in section 10, T1S, R5E to its confluence with the Huron river.

(d) Mill creek, from Parker road in section 13, T2S, R4E to the incorporated village limits of Dexter.

(e) Unless specifically exempted in this subdivision, all lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (d) of this rule.

(f) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (e) of this rule.

History: 2013 AACCS.

### **R 281.101 Huron River system principal uses; natural vegetation strip.**

Rule 51. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with all the following provisions:

(i) The minimum building setback shall be not less than 125 feet from the ordinary high-water mark on the mainstream except as described in R 281.57.

(ii) The setback may be decreased 10 feet for every 10 foot of rise in bank height to a minimum of 75 feet from the ordinary high-water mark.

(iii) The minimum building setback on all designated tributaries shall be not less than 50 feet from the ordinary high-water mark.

(iv) A dwelling shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream.

(v) Building shall not take place on land that is subject to flooding or in any wetland area.

(vi) The natural contour of the face and crest of the bluff shall not be altered.

(vii) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field located not less than 125 feet from the ordinary high-water mark and not less than 50 feet from any surface or subsurface drain that discharges into the Huron river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, shall not be located less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Huron river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after June 2, 1980, with the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) Has at least 150 feet of river frontage, unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and is at least 150 feet wide at the minimum building setback line.

(iii) Contain at least 50,000 square feet of area within the natural river district. Any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage and the front line of the parcel is greater than 150 feet from the river's edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(iv) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.

(v) A lot that exists on June 2, 1980, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after June 2, 1980, shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to R 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river's edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities subject to R 281.57.

(2) Within the Huron river natural river district, a natural vegetation strip that includes the river and all lands within 50 feet of the ordinary high-water mark shall be maintained



on each side of the Huron river mainstream and all designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

History: 2004 AACCS; 2013 AACCS.

**R 281.102 Purpose; intent; scope.**

Rule 2. (1) The director may, on his or her own motion, implement the intent of Natural Rivers Part 305 of 1994 PA 451, and in the absence of local zoning to protect the Pine river, a designated natural river, promulgates these rules for the following purposes:

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

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

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

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

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

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

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

(3) It is not the intent of these rules to revoke, annul, cancel, or in any way impair or interfere with existing provisions of law, ordinances, or any rules, regulations, or premises or with any private restrictions placed upon property by covenant or deed. However, where such provisions of law are less restrictive than the provisions of Natural Rivers Part 305 of 1994 PA 451, and the rules promulgated thereunder, the provisions of Natural Rivers Part 305 of 1994 PA 451 and the rules promulgated thereunder shall apply.

History: 2004 AACCS.

**R 281.103 Construction of language; severability.**

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

- (a) A "building" or "structure" includes any part thereof.
  - (b) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
  - (c) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
  - (d) The terms "lot" and "parcel" have the same meaning.
  - (e) Terms not defined in these rules shall have the meanings customarily assigned to them.
- (2) In any case in which the provisions of these rules are declared by the courts to be unconstitutional or invalid, such ruling shall not affect the validity of the remaining provisions of these rules and to this end the provisions of these rules are declared to be severable.

History: 2004 AACCS.

**R 281.104 Lot size and area; subdivision of land; home and home-based occupations; native vegetation buffer; signs; docks; height of structures; river access stairways; dams; impervious surfaces.**

Rule 4. (1) Unless otherwise provided in these rules, a lot created after the effective date of these rules shall meet all of the following standards on at least 1 side of the stream that is accessible by a public road or legal easement:

(a) Have at least 200 feet of river frontage (unless a riverfront "common area" subject to a conservation easement is established, or the parent parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river) and be at least 200 feet wide at the minimum building setback line.

(b) Contain at least 1/2 acre of existing contiguous upland buildable area (non-wetland, non-floodplain) landward of the minimum building setback line.

(c) Contain at least 80,000 square feet of area within the Natural River District (any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area). If the parent parcel does not have river frontage, and the front line of any newly created parcel is greater than 150 feet from the river's edge at all points, this rule does not apply, and the minimum parcel width will be measured at the front lot line.

(d) Have sufficient depth to accommodate the required building setbacks pursuant to the standards in R 281.107.

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

(3) Proposed lots which have preliminary plat approval pursuant to 1967 PA 288, MCL 560.101 but which do not meet the dimensional requirements of these rules on their effective date, shall, on final plat approval, be issued a permit subject to the requirements in R 281.109 and R 281.110.

(4) Lots of record which are created before the effective date of these rules and which do not possess sufficient land area or lot width may be used for the purposes described in these rules, subject to the requirements provided for in R 281.109 and R 281.110.

(5) Home occupations and home-based occupations shall conform to all of the following requirements:

(a) The use of the dwelling unit, or related structure, for a home occupation or home-based occupation shall be clearly incidental and subordinate to its use for residential purposes.

(b) Equipment or a process shall not be used in a home occupation or home-based occupation if it creates noise, vibration, fumes, odors, or electrical interference that is detectable to the normal senses off the premises.

(6) Within the natural river district, a native vegetation buffer that includes the river and all lands within 100 feet of the ordinary high watermark shall be maintained on each side of the Pine river mainstream and the North Branch Pine river from its confluence with Spalding Creek to its confluence with the East Branch Pine river. A restrictive cutting belt that includes tributaries and all lands within 50 feet of their ordinary high watermarks shall be maintained on each side of all designated tributaries. Trees and shrubs may be pruned over not more than a 50-foot width for a filtered view of the river, but clear cutting in the native vegetation buffer is prohibited. The native vegetation buffer is also subject to all of the following provisions:

(a) Unsafe trees and noxious plants and shrubs, such as poison ivy and poison sumac, may be removed.

(b) The selected removal or trimming of trees for forest management practices or disease and insect control, and clearing of vegetation to the minimum width required for public utility primary electric distribution lines and service lines for permitted uses is permitted upon approval of the zoning administrator in consultation with local Conservation District staff, if the activity is in keeping with the goals and objectives of the Natural River Plan.

(c) Camping other than low-impact tent camping is not permitted in the native vegetation buffer.

(d) Mowing is prohibited in the native vegetation buffer except in areas that had been maintained in a mowed condition prior to adoption of these rules or to establish a footpath to the river not to exceed 4 feet wide.

(e) In the Pine river system upstream of the confluence of the North Branch Pine river and the East Branch Pine river and on all tributaries, vegetation in the stream channel may not be disturbed except to alleviate flooding that threatens a dwelling. In the Pine River mainstream downstream of the confluence of the North Branch Pine river and the East Branch Pine river vegetation may be selectively pruned to allow for safe navigation and to alleviate flooding that threatens a dwelling. This may include pruning of a maximum 8-foot wide section of vegetation. Portions of trees, logs, and other natural material imbedded in the stream channel may not be disturbed.

(f) A boardwalk constructed in conjunction with the footpath described in subdivision (d) of this subrule is permitted upon approval of the zoning administrator if it is placed only in areas that are generally too wet to be traversed without significant disturbance of the soils, the boardwalk and supports are constructed of wood, the boardwalk is not more than 3 feet wide and does not include railings, and the top of the boardwalk is not more than 12 inches above grade.

(g) All islands in all stream segments are subject to the native vegetation buffer standards.

(h) A wider native vegetation buffer may be required for certain commercial uses.

(7) Signs for identification, direction, resource information, regulation of use and those related to permitted uses are allowed. Signs for the sale of products or services are prohibited, unless related to a permitted use, located on the site of the permitted use, not located in the native vegetation buffer and not visible from the river. Illuminated signs are prohibited. Signs may be not more than 2 square feet in area. Exceptions include 1 real estate sign not more than 4 square feet outside the native vegetation buffer, and public agencies' signs not larger than 10 square feet, of rustic design and not attached to vegetation. Some public agency signs may need to be larger to warn of impending danger or for interpretative or historic reasons.

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

(a) Docks shall not be more than 48 square feet in area, with not more than 4 feet of the dock extending over the edge of the river.

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

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

(9) Unless otherwise provided for in these rules, a structure shall not be more than 2 1/2 stories tall, not including a basement, and not more than 35 feet in height measured from the original surface elevation.

(10) Private river access stairways are permitted upon approval of the zoning administrator if in compliance with all of the following requirements:

(a) There is no other safe, feasible access to the river without a stairway.

(b) The stairway is low-profile, not more than 4 feet wide and constructed without stairs being recessed into the ground surface unless site and soil conditions dictate that a recessed stairway is more appropriate.

(c) There are no landings associated with the stairway unless required by building codes, in which case the landings shall be of the minimum number and size required by building codes.

(d) Not more than 1 handrail is associated with the stairway.

(e) Only 1 river access stairway is permitted per parcel.

(f) The stairway is constructed using natural materials and is located and maintained to blend with the natural surroundings.

(11) Construction of new dams is prohibited. Reconstruction of a failed dam is permitted under any of the following conditions:

(a) Reconstruction of a dam destroyed by a catastrophic event such as flood may be reconstructed.

(b) Reconstruction of a dam that failed due to lack of maintenance or other negligence by the owner or operator is prohibited.

(c) Reconstruction of a dam that failed due to a catastrophic event shall comply with construction standards in effect at the time of application for replacement.

(d) Application for reconstruction shall be received within 1 year of destruction.

(e) A reconstructed dam shall be rebuilt with a height not greater than the original dam height.

(f) A bottom discharge and fish passage facilities shall be provided for a reconstructed dam where appropriate.

(g) A request for replacement of a dam destroyed by a catastrophic event shall be handled as a variance request for reconstruction of a destroyed, non-conforming structure.

(12) The maximum percentage of impervious surface permitted on a lot is as follows:

(a) For lots with less than 10,000 square feet of area, not more than 35% of the land surface may be covered by impervious surfaces.

(b) For lots with between 10,000 square feet and 40,000 square feet of area, not more than 25% of the land surface may be covered by impervious surfaces.

(c) For lots with between 40,001 square feet and 80,000 square feet of area, not more than 20% of the land surface may be covered by impervious surfaces.

(d) For lots greater than 80,000 square feet of area, not more than 10% of the land surface may be covered by impervious surfaces.

History: 2004 AACCS.

### **R 281.105 Boundaries; interpretation of boundaries; filing of zoning map.**

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

(a) The Pine river mainstream, from the confluence of the North Branch Pine river and the East Branch Pine river in section 29 of Burdell Twp., T20N, R10W to M-55.

(b) The North Branch Pine river from its easternmost crossing of the north line of section 20 of Clam Lake Twp., T21N, R9W to its confluence with the East Branch of the Pine river. Lands adjacent to the North Branch from its confluence with Spalding Creek to its confluence with the East Branch are subject to mainstream development standards.

(c) Spalding Creek from 46 Road (the south line of section 16 of Cherry Grove Twp., T21N, R10W) to its confluence with the North Branch of the Pine river.

(d) Fairchild Creek from its source in section 24 of Henderson Twp., T21N, R11W to its confluence with the North Branch of the Pine river.

(e) Sixteen Creek from its source in section 2 of Burdell Twp., T20N, R10W to its confluence with the North Branch of the Pine river.

(f) An unnamed stream from the outfall of a dam in section 8 of Burdell Twp., T20N, R10W to its confluence with the Pine river.

(g) The East Branch of the Pine river from the outfall of a lake in section 1 of Burdell Twp., T20N, R10W to its confluence with the North Branch of the Pine river.

(h) The Rose Lake Outlet from its sources at the outfall of Rose Lake in section 3 of Rose Lake Township, T19N, R9W and the outfall of Emery Lake in section 34 of Sherman Twp., T20N, R9W, to its confluence with the East Branch of the Pine river.

(i) Edgett Creek from the west line of section 36 (190th Rd.) in Burdell Twp., T20N, R10W to its confluence with the Rose Lake outlet including both branches of the Diamond Lake outlet from their sources in section 26 of Burdell Twp. to the confluence with Edgett Creek.

- (j) An unnamed stream from its source in section 20 of Sherman Twp., T20N, R9W to its confluence with the Rose Lake outlet.
- (k) Sprague Creek from the outfall of a pond in the center of section 33 of Burdell Twp., T20N, R10W to its confluence with the Pine river.
- (l) Beaver Creek from the north/south centerline of section 11 of LeRoy Twp., T19N, R10W to its confluence with the Pine river.
- (m) Little Beaver Creek from the outlet of a large pond in the northeast 1/4 of section 19 of LeRoy Twp., T19N, R10W to its confluence with Beaver Creek.
- (n) An unnamed stream from the outfall of the southernmost of two ponds in section 14 of Ellsworth Twp., T19N, R11W to its confluence with the Pine river.
- (o) Coe Creek from the outfall of Lake Olga in section 1 of Dover Twp., T20N, R11W to its confluence with the Pine river.
- (p) Dyer Creek from the outfall of a small pond in section 13 of Dover Twp., T20N, R11W to its confluence with Coe Creek.
- (q) Sellars Creek from its source in section 21 of Dover Twp., T20N, R11W to its confluence with the Pine river.
- (r) An unnamed stream from its source in section 20 of Dover Twp., T20N, R11W to its confluence with the Pine river.
- (s) An unnamed stream from its source in section 19 of Dover Twp., T20N, R11W to its confluence with the Pine river.
- (t) An unnamed stream from its source in section 24 of Newkirk Twp., T20N, R12W to its confluence with the Pine river.
- (u) Silver Creek from its source in section 15 of Dover Twp., T20N, R11W to its confluence with the Pine river, including all perennial tributaries from their sources to their confluence with Silver Creek.
- (v) An unnamed stream from its source in section 13 of Newkirk Twp., T20N, R12W to its confluence with the Pine river.
- (w) An unnamed stream from its source in section 11 of Newkirk Twp., T20N, R12W to its confluence with the Pine river.
- (x) An unnamed stream from its source in section 7 of Dover Twp., T20N, R11W to its confluence with the Pine river.
- (y) An unnamed stream from its source in section 1 of Newkirk Twp., T20N, R12W to its confluence with the Pine river.
- (z) Poplar Creek from its source in section 26 of Henderson Twp., T21N, R11W to its confluence with the Pine river.
- (aa) Dowling Creek from its 2 sources in sections 21 and 28 of Henderson Twp., T21N, R11W to its confluence with Poplar Creek.
- (bb) Hoxey Creek from its source in section 25 of South Branch Twp., T21N, R12W to its confluence with the Pine river.
- (cc) An unnamed Creek from its sources in section 27 and 34 of South Branch Twp., T21N, R12W to its confluence with the Pine river.
- (dd) Yates Creek from its source in section 22 of South Branch Twp., T21N, R12W to its confluence with the Pine river.
- (ee) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (dd) of this subrule.

(ff) The lands lying within 400 feet of the river's edge that are enumerated in subdivisions (a) to (ee) of this subrule.

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

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

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

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

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

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

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

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

(h) If a portion or all of the district is indicated on the zoning map by a pattern which, for the sake of map clarity, does not cover public rights-of-way, then the district boundaries extend to the center of any public right-of-way.

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

(a) The state tax commission.

(b) Local tax assessing officers.

(c) Township and county clerks.

(d) County drain commissioners.

(e) Local building department.

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

History: 2004 AACCS.

### **R 281.106 Zoning permits; site plans; certificates of zoning compliance.**

Rule 6. (1) A building or other structure shall not be erected, moved, added to, or structurally altered, and a land use shall not be commenced, without a zoning permit as specified by these rules and as issued by the zoning administrator. Permits shall not be required for exempt activities as specified in R 281.107. Plans that are submitted

when applying for a zoning permit shall contain the necessary information for determining compliance with these rules.

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

- (a) A site plan drawn to scale, with the scale indicated.
- (b) Property dimensions, including river frontage.
- (c) Size, shape, use, and location of existing and proposed buildings or improvements, including distances to adjacent property boundaries and the river's edge.
- (d) Existing vegetation, including the location and type.
- (e) Adjacent streets and highways.
- (f) Parking areas.
- (g) Cross section drawing showing height of buildings above water level and bluff heights.
- (h) Entrances to public streets.
- (i) Description of the building design, including proposed construction materials.
- (j) Drainage facilities.
- (k) Location and description of the method to dispose of sanitary wastes.
- (l) Proposed landscaping.
- (m) Location of footpaths.
- (n) Signs proposed, including the size, location, and material.
- (o) North arrow.
- (p) Date of drawing.
- (q) Detailed site location map.
- (r) Any additional information required the zoning administrator or zoning review board to carry out the administrator's or board's duties. Examples of such information include the following:

- (i) Soil types.
- (ii) Topography.
- (iii) Building elevations.
- (iv) Site photographs.
- (v) Anticipated traffic volumes.
- (vi) Traffic circulation patterns.
- (vii) Other pertinent site information.

(3) A building, structure, or lot for which a zoning permit has been issued shall not be occupied, and a use for which a zoning permit has been issued shall not commence, until the zoning administrator has, after final inspection, issued a certificate of zoning compliance that certifies compliance with these rules. However, the issuance of a certificate of compliance shall not be construed as waiving any provision of these rules. A building that is an accessory to a dwelling shall not require a separate



certificate of zoning compliance, but may be included in the certificate of zoning compliance for the dwelling if shown on the site plan and if completed at the same time as the dwelling. A record of all certificates that are issued shall be kept on file in the office of the zoning administrator. Certificates of zoning compliance are for the purposes of these rules and shall not be interpreted as substitutes for certificates of occupancy that are required by local building codes or local zoning permits.

History: 2004 AACCS.

### **R 281.107 Land use and development standards.**

Rule 7. (1) Land uses within the natural river district are classified as exempt, principal, or special uses and are described as follows:

(a) Exempt uses are uses which are permitted by right and which are not subject to the receipt of a zoning permit. Exempt uses include all of the following:

(i) Private, noncommercial recreation which does not involve permanent structures, equipment, or other devices, but which includes camping, boating, fishing, hunting, and other similar activities.

(ii) Reforestation and other accepted forest management practices that do not involve permanent structures and that are landward of the native vegetation buffer.

(iii) Agricultural activities, such as plowing, disking and planting of crops, including general and specialized farming such as Christmas tree farms, provided that all new activities occur landward of the native vegetation buffer and provided such uses will not significantly contribute to stream degradation. Construction of any residential and farm-related structures and appurtenances are classified as principal uses (see subrule

(2) of this rule) and are subject to zoning permit requirements. New aquaculture facilities and concentrated animal feeding operations, and expansion of existing aquaculture facilities and concentrated animal feeding operations, are not permitted within the Natural River District without a land use variance. Resumption of prior agricultural uses that were located within the native vegetation buffer but have been discontinued, for example, crop fields that are rotated, may resume if 1 of the following criteria is met:

(A) The cessation of use was within 10 years of resumption of use.

(B) The cessation of use was due to implementation of a management plan written prior to adoption of these rules.

(C) The cessation of use was the result of written agreements with a governmental agency or agencies entered into prior to adoption of these rules.

(D) The cessation of use was the result of written agreements with a governmental agency or agencies entered into after adoption of these rules or ordinances implementing this plan, where the term of cessation of use specified in the agreement is for 10 years or less.

(E) The cessation of use was required or imposed by a governmental agency or agencies.

(iv) The operation of licensed motor vehicles on dedicated public roads or private roads that are designed to provide access to a permitted use.

(v) The off-road operation of emergency and public utility maintenance vehicles, and the operation of motorized or non-motorized wheelchairs by persons with disabilities on footpaths, boardwalks, or other designated trails. Other motorized vehicles may not be operated off the road in the native vegetation buffer as specified in R 281.104.

(vi) Cutting of low growing vegetation in the native vegetation buffer to create a private footpath of not more than 4 feet in width leading to a single point on the river's edge. A boardwalk or other above grade walkway is considered a structure and requires a zoning permit.

(vii) Signs, subject to the provisions of R 281.104.

(viii) A replacement residential water supply well, provided the replacement well is not closer to the river's edge than the well it is replacing and is landward of the native vegetation buffer, and the replaced well is properly abandoned.

(ix) Routine maintenance and repairs of principal uses within the existing foundation and structure, subject to R 281.110.

(x) Satellite dishes that are less than 24 inches in diameter and that are not located in the native vegetation buffer.

(b) Principal uses are uses which are allowed by right, but which require the issuance of zoning permits by the zoning administrator. Principal uses include all of the following:

(i) Single-family dwellings, including detached long-term rental dwellings, if all of the following provisions are complied with:

(A) Only 1 dwelling shall be permitted per parcel unless 1 of the following occurs:

(1) The property owner develops a site plan for the parent parcel showing theoretical property lines for individual lots based on Natural River development standards, and locates any additional residences and appurtenances as if the property were divided into those separate lots.

(2) For each single-family dwelling placed in a cluster-type setting so that the requirements in subdivision (b)(i)(A)(1) are not met, a portion of the parent parcel containing square footage, width, depth and buildable area equal to a newly created separate legal parcel as described in R 281.104 will be made subject to a permanent conservation easement or deed restriction that prohibits construction of any structures within that portion of the parcel, or the development rights to a portion of the parent parcel containing square footage, width, depth and buildable area equal to a newly created separate legal lot or parcel as described in R 281.104 will be sold, donated, or otherwise conveyed in perpetuity to a land conservancy, local unit of government, or the state. The agency acquiring the development rights shall agree in writing to refrain from development of the land in perpetuity.

(B) Building setback for lots shall be not less than 150 feet from the ordinary high watermark on the mainstream and the North Branch Pine river from its confluence with Spalding Creek to its confluence with the East Branch Pine river and not less than 100 feet from the ordinary high watermark on all other designated tributaries, except as described in subdivision

(b)(i)(C) of this rule. On the mainstream and the North Branch Pine river from its confluence with Spalding Creek to its confluence with the East Branch Pine river the setback may be decreased 1 foot for every 1-foot rise in bank height to a minimum

distance of 100 feet from the ordinary high water mark. The reduction in setback does not apply until the bank height reaches 25 feet, at which point the reduction in setback is 25 feet. On all other tributaries, the setback may be decreased 1 foot for every 1-foot rise in bank height to a minimum distance of 75 feet from the ordinary high water mark. The reduction in setback does not apply until the bank height reaches 15 feet, at which point the reduction in setback is 15 feet. Structures shall be set back not less than 50 feet from the crest of a bluff on the mainstream and the North Branch Pine river from its confluence with Spalding Creek to its confluence with the East Branch Pine river, and not less than 25 feet from the crest of a bluff on all other designated tributaries. Building shall not take place on land that is subject to flooding or in any wetland area. The natural contour of the face and crest of the bluff shall not be altered. The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(C) If a building setback is in an area of concentrated development and a vacant legal nonconforming parcel is between and adjacent to 2 parcels that contain legal single-family dwellings that do not meet the minimum building setbacks, and the adjacent legal non-conforming single-family dwellings are within 300 feet of each other, then the minimum building set back for a new single-family dwelling on the vacant parcel is the distance from the river of the adjacent single-family dwelling that is farthest from the river's edge or the minimum required width of the native vegetation buffer, whichever is greater, provided the single-family dwelling is not placed on lands that are subject to flooding or in any wetland area. All appurtenances and accessory buildings shall meet the minimum required building setback described in subdivision (b)(i)(B). All structures shall be set back not less than 50 feet from the crest of a bluff on the mainstream and not less than 25 feet from the crest of a bluff on designated tributaries. The natural contour of the face and crest of the bluff shall not be altered. The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(ii) Expansion of a legal nonconforming single-family dwelling subject to the provisions of R 281.110(a)(b).

(iii) Accessory buildings and appurtenances that meet requirements of paragraph (i) of this subdivision.

(iv) One private boat dock per parcel, subject to the provisions of R 281.104.

(v) One private river access stairway per parcel, subject to the provisions of R 281.104.

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

(vii) Disposal fields, septic tanks, and outhouses if all of the following provisions are complied with:

(A) The septic tank and disposal field meet local health department standards.

(B) The disposal field shall be located not less than 100 feet from the ordinary high watermark and any surface or subsurface drain that discharges into the Pine river or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the native vegetation buffer.

(C) The septic tank shall be no closer to the river than the dwelling it serves and shall not be located within the 100-year floodplain or a wetland area.

(D) The bottom of the disposal field shall be at least 4 feet above the seasonal high groundwater table.

(E) An outhouse shall be constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, shall be located not less than 100 feet from the ordinary high watermark and any surface or subsurface drain that discharges into the Pine river or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the native vegetation buffer.

(F) Drywells and earth privies are not permitted unless they are authorized by the local health department, are a minimum of 100 feet from the ordinary high water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(G) An innovative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries, except the North Branch of the Pine river from the confluence with Spalding Creek to the confluence with the East Branch of the Pine river, provided no part of the system is in a wetland or the 100-year floodplain.

(H) Disposal of sludge from any wastewater treatment system is prohibited in the Natural River District.

(viii) Water supply wells serving exempt, principal, or special uses if the well is landward of the native vegetation buffer described in R 281.104.

(iv) Mining and extracting industries, if all land disturbance, structures, and other activities related to the industry are located more than 300 feet from the ordinary high watermark.

(x) Land divisions, if the minimum standards specified in R 281.104 are met. A zoning permit, special use permit or variance will not be granted for any activity on a parcel that is created after the effective date of these rules if the new parcel does not meet R 281.104. No new parcel will be created that would require reaching the only buildable area by constructing a road/stream crossing.

(xi) Home occupations and home-based occupations, subject to R 281.104.

(xii) Land alteration, such as grading, dredging, and filling of the land surface, except within the native vegetation buffer, on the face or crest of a bluff, or in a wetland or floodplain as defined in R 281.101. Draining wetlands is prohibited. Ponds may be constructed if the pond is not constructed in a wetland or the 100-year floodplain, the pond meets the building setback established for the area, spoils are placed in a non-wetland, non-floodplain area landward of the native vegetation buffer, and the pond is not connected to the river by any surface or subsurface drainage system.

(xiii) Bridges, including any structure of any span length designed to provide a pedestrian or vehicle stream crossing, subject to all the following standards:

(A) All existing bridges that are destroyed by any means, whether on a tributary or mainstream segment, may be replaced. On mainstream segments, destroyed pedestrian bridges may not be replaced with vehicle bridges. Destroyed bridges shall be replaced within 18 months of destruction or the replacement bridge shall be considered to be a new bridge and shall be subject to new bridge standards.

(B) New bridges are not permitted on any parcel that is created after the effective date of these rules.

(C) New bridges of any type are prohibited on mainstream segments.

(D) All replacement bridges on mainstream segments shall span the bankfull channel, have a minimum clearance of 5 feet between the ordinary high water mark and "low steel" (the bottom of the bridge deck and/or deck supports other than abutments), and be a structure with a natural bottom, for example, pipe, box or arch culverts are not permitted.

(E) New pedestrian bridges are permitted on all tributaries provided the lands connected by a new bridge were, at the time of adoption of these rules, and continue to be, collectively owned by 1 person.

(F) New bridges linking properties in separate ownership shall not be permitted except in areas where construction of such a bridge to access a permitted building site will result in less resource damage than construction of another type of permitted access. The exception shall only apply to lots that were created before the effective date of these rules.

(G) Only 1 bridge is permitted to access a portion of land that is otherwise inaccessible from the owner's contiguous property.

(H) Permanent new bridges on tributaries shall span the bankfull channel and be a structure with a natural bottom, for example, pipe, box, or arch culverts are not permitted, and, in the case of pedestrian bridges, be constructed such that use by any motorized vehicles, including dirt bikes and ATVs are excluded.

(I) Permanent bridges replacing bridges that have natural bottoms on tributaries shall span the bankfull channel and be a structure with a natural bottom, for example, pipe, box or arch culverts are not permitted, and in the case of pedestrian bridges, be constructed such that use by any motorized vehicles, including dirt bikes and ATVs are excluded.

(J) Permanent bridges replacing bridges without natural bottoms on tributaries must span the bankfull channel, and, in the case of pedestrian bridges, be constructed such that use by any motorized vehicles, including dirt bikes and ATVs are excluded.

(K) Temporary vehicle bridges on tributaries for the purpose of access for timber harvest may be permitted provided they are constructed in a manner that minimizes disruption of the stream and are removed immediately after harvesting activities. Disturbed areas in the native vegetation buffer shall be revegetated, any fill placed shall be removed, and the land shall be returned to its original grade as soon as possible after removal of the bridge. Proper erosion/sedimentation control methods shall be used during placement and use of the bridge.

(L) New permanent vehicle bridges on tributaries may be allowed upon receipt of a special use permit.

(xiv) Forest management activities within the native vegetation buffer, subject to the provisions of R 281.104.

(xv) Boardwalks that meet the setback requirements of subrule (2)(C) of this rule and boardwalks associated with a footpath to the river's edge subject to of R 281.104(6).

(c) The Pine river natural river plan and these rules recognize that certain types of residential, recreational, and commercial uses may be appropriate for the natural river district that have not been identified under the exempt and principal uses provisions of this rule. To ensure that such uses do not contravene the goals and objectives of the Pine river natural river plan and these rules, such uses shall be referred to as special uses

and shall be subject to the review and approval of the zoning review board. Special uses and their development standards include all of the following:

(i) Detached rental cabins, if all of the following provisions are complied with:

(A) The number of cabins permitted shall be based on the rate of 1 cabin per 200 feet of frontage. Clustering of rental cabins is permitted and encouraged; however, there shall not be more than 1 cabin per 200 feet of river frontage. For each cabin placed in a cluster-type setting, a portion of the parent parcel containing square footage, width, depth, and buildable area equal to a newly created separate legal parcel as described R 281.104 shall be made subject to a permanent conservation easement or deed restriction that prohibits construction of any structures within that portion of the parcel, or the development rights to a portion of the parent parcel containing square footage, width, depth, and buildable area equal to a newly created separate legal lot or parcel as described in R 281.104 will be sold, donated or otherwise conveyed in perpetuity to a land conservancy, local unit of government, or the state. The agency acquiring the development rights shall agree in writing to refrain from development of the land in perpetuity.

(B) The size of each cabin shall not exceed 900 square feet and 1 story in height. The cabin shall not contain sleeping accommodations for more than 8 people.

(C) Each cabin shall be set back a minimum of 200 feet from the ordinary high watermark. All associated buildings and structures shall be located outside of the Natural River District.

(D) Temporary recreational facilities, including tents, camper trailers, and recreational vehicles shall be located outside of the Natural River District.

(E) Each cabin shall be a minimum of 75 feet from the property line of adjacent riverfront properties.

(F) Establishment of vegetative buffers along side or back lot lines may be required for rental cabins that are adjacent to existing residential uses. Buffers shall consist of plant material that is indigenous to the area in a strip at least 20 feet wide composed of deciduous trees interspersed with coniferous trees to be spaced not more than 10 feet apart. Deciduous trees shall be a minimum of 8 feet in height and coniferous trees a minimum of 5 feet in height at the time of planting. The buffer shall also include dense shrubs placed not less than 5 feet apart having a minimum of 3 feet in height when planted. The entire buffer shall be maintained in at least as healthy a condition as when planted.

(G) Docks may be constructed for the private use of occupants of the rental cabins. Permanent and seasonal docks shall comply with the general standards for docks and all of the following provisions:

(1) Docks shall be not larger than 48 square feet, with not more than 4 feet of the dock extending into the water.

(2) Docks may be constructed at the rate of 1 dock per 1000 feet of frontage. If the property in question contains less than 1000 feet of frontage, 1 dock will be permitted

(3) Docks shall be constructed of natural materials that blend with the natural surroundings.

(4) Access to a dock or docks shall be along a single designated footpath not more than 4 feet wide to minimize disruption of the native vegetation buffer.

(5) Any steps or stairs necessary on the stream bank to access the dock shall be constructed without cutting into the ground surface, unless site and soil conditions indicate that a recessed stairway will better meet the goals and objectives of designation.

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

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

(B) Commercial buildings associated with the campground are prohibited in the Natural River District.

(C) All permanent structures shall be at least 200 feet from the river's edge.

(D) Campsites are permitted at a density of not more than 4 sites per acre of land that is located in the Natural River District and landward of the native vegetation buffer.

(E) A 100 foot-wide native vegetation buffer along the river shall be maintained.

(F) Campsites that accommodate wheeled motor vehicles shall be at least 200 feet from the river's edge.

(G) Walk-in campsites shall be landward of the native vegetation buffer.

(H) Docks may be constructed at the rate of 1 dock not larger than 48 square feet for each 200 feet of river frontage, accessed by a single footpath not more than 4 feet wide.

(I) No motorized vehicle access to the river is permitted.

(J) Launching or retrieval of commercial watercraft, other than by registered campers on-site, is prohibited at any newly developed campground.

(iii) Permanent vehicle bridges on tributaries subject to the provisions of R 281.107.

History: 2004 AACCS.

### **R 281.108 Application and approval; procedures and standards; principal uses and special uses.**

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

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

(i) A completed application form that is signed by the applicant or the applicant's representative.

(ii) A site plan that meets the requirements of R 281.106.

(iii) Evidence of ownership or a legal interest in the property that is affected by the application for a principal use.

(b) Within 21 days of receipt of an application for a principal use, the zoning administrator shall notify the applicant of the need for additional information.

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

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

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

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

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

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

(i) A completed application form that is signed by the applicant or the applicant's representative.

(ii) Eight copies of a site plan that meet the requirements of R 281.106.

(iii) Evidence of ownership or a legal interest in the property that is affected by the application for a special use.

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

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

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

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

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

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

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

(B) Local tax assessing officials.

(C) Township and county clerks.

(D) Local building inspectors.

(E) State, district, or county health department, when applicable.

(d) In considering a special use application, the zoning review board shall require that all of the following general standards, in addition to those specific standards established for each special use in R 281.107, are satisfied:

(i) That the purposes specified in R 281.102 are accomplished.



(ii) That a compelling reason exists to locate the proposed use within the district boundaries if contiguous property under the same ownership is available outside the district.

(iii) That the proposed use in combination with other existing uses will not be a detriment to the public health, safety, and welfare.

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

(f) The concurring vote of at least 4 of the 7 voting members of the zoning review board shall be required to approve a special use.

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

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

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

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

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

History: 2004 AACCS.

### **R 281.109 Variances and variance hearings.**

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

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

(a) How substantial the variance is in relation to the zoning requirements.

(b) Whether a substantial change will be effected in the character of the area or a substantial detriment created for adjoining properties.

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

(d) Whether, in view of the manner in which the difficulty arose, the interests of justice will be served by allowing the variance.

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

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

(3) For the purposes of these rules, the required hearing and review of a variance request by the zoning review board shall be waived for certain minor dimensional variances of principal uses, including legal nonconforming uses. Such variances shall be handled by the zoning administrator, who shall consider the provisions of subrule (2) of this rule in making a determination. The zoning administrator shall prepare a written finding of fact that details the reasons for approval or denial of the minor variance request. Minor variances are defined as reductions in setbacks for uses on any lawful lot that are not more than 25% of the normal dimensional requirements. Such uses shall include principal or accessory buildings or structures, including decks, porches, and steps.

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

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

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

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

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

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

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

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

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

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

(c) The use will be adequately served by existing essential public facilities and services, such as highways, police and fire protection, drainage structures, refuse disposal, and sanitation facilities, or the persons or agencies that are responsible for the establishment of the

proposed use may adequately provide essential services.

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

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

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

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

(7) Upon receipt of an application for a variance, the zoning review board shall conduct a hearing on the request, except as provided for in subrule (3) of this rule. The hearing and notice procedure shall follow the procedure established for special use applications by R 281.108. A decision shall be made within 30 days after the final hearing to approve or deny the variance request. The zoning review board shall keep complete and detailed records of all its proceedings, which shall include the minutes of its meetings, findings, and actions taken on each matter heard by it, including the final order. Reasons for the decision shall be in writing. The board shall record the vote of each member on each question. If a member is absent or fails to vote, the board shall indicate such fact. All records shall be open for public inspection. The concurring vote of at least 4 of the 7 voting members of the zoning review board is required to effect a dimensional variance in these rules. The concurring vote of at least 5 of the 7 voting members of the zoning review board is required to grant a land use variance in these rules. If the required concurring vote for approval of a variance is not achieved, the variance is denied.

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

(9) A variance shall create a nonconforming land use, lot, or structure that is subject to the provisions of R 281.110 which regulates continued use.

(10) The zoning review board or the zoning administrator may impose conditions on an applicant before granting a variance. Such conditions shall be in writing. The zoning permit issued for the project for which the variance was approved is not valid until the applicant accepts the conditions in writing.

(11) An application for a variance that has been denied by the zoning review board or zoning administrator shall not be submitted for reconsideration unless, in the opinion of the zoning administrator, the application is significantly different in scope from the application that was denied or new and significant facts and conditions exist which might result in favorable action upon resubmission.

History: 2004 AACCS.

### **R 281.110 Rogue river system boundaries.**

Rule 60. The boundaries of the Rogue river natural river district shall be as described in these rules and as depicted on the certified Rogue river natural river zoning map with an

effective date of June 2, 1980. The Rogue river natural river zoning district comprises an area that is described as follows:

- (a) The mainstream of the Rogue river from 20 Mile road in section 11, T10N, R12W to its confluence with the Grand river.
- (b) Spring creek from its source in section 4, T10N, R11W to its confluence with the Rogue river.
- (c) Duke creek from its source in section 1, T10N, R11W to its confluence with the Rogue river.
- (d) Cedar creek from its source in section 29, T10N, R10W to its confluence with the Rogue river.
- (e) Stegman creek from its source in section 16, T9N, R10W to its confluence with the Rogue river.
- (f) Becker creek from its sources in sections 5 and 8, T9N, R10W to its confluence with the Stegman creek.
- (g) Shaw creek from its sources in section 29, T9N, R10W to its confluence with the Rogue river.
- (h) Rum creek from its source in section 4, T8N, R10W to its confluence with the Rogue river.
- (i) Barkley creek from its source in section 8, T9N, R10W to its confluence with the Rogue river.
- (j) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (i) of this rule.
- (k) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (j) of this rule.

History: 2004 AACCS; 2013 AACCS.

### **R 281.111 Rogue river system principal uses; natural vegetation strip.**

Rule 61. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

- (a) A single-family dwelling or short-term rental facility with the following provisions:
  - (i) The minimum building setback shall be not less than 150 feet from the ordinary high-water mark on the mainstream and 100 feet from the ordinary high-water mark on all designated tributaries, except as described in R 281.57.
  - (ii) A dwelling shall be set back not less than 50 feet from the top of a bluff on a cutting edge of a stream.
  - (iii) Building shall not take place on land that is subject to flooding or in any wetland area.
  - (iv) The natural contour of the face and crest of the bluff shall not be altered.
  - (v) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.
- (b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.
- (c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

- (d) One private river access stairway per parcel, subject to R 281.57.
- (e) Utility lines to service a single-family dwelling or short-term rental facility.
- (f) A disposal field, septic tank, and outhouse, with all the following provisions:
  - (i) A septic tank and disposal field meet local health department standards.
  - (ii) A disposal field located not less than 100 feet from the ordinary high-water mark on the mainstream and all designated tributaries and not less than 50 feet from any surface or subsurface drain that discharges into the Rogue river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.
  - (iii) A septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.
  - (iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, shall not be located less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Rogue river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.
  - (v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.
  - (vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries, provided no part of the system is in a wetland or the 100-year floodplain.
  - (vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.
- (g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.
- (h) A land division, if any lot created after June 2, 1980, with all the following provisions:
  - (i) Is accessible by a public road or legal easement standards on at least 1 side of the stream that has all the following:
    - (ii) At least 200 feet of river frontage, unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and is at least 200 feet wide at the minimum building setback line.
    - (iii) At least 50,000 square feet of area within the natural river district. Any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage and the front line of the parcel is greater than 150 feet from the river's edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.
    - (iv) Sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.
    - (v) A lot that exists on June 2, 1980, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after June 2, 1980, shall meet the minimum requirements of this rule, except as provided in R 281.56.

- (i) Home occupations and home-based occupations, subject to R 281.57.
- (j) Land alteration, subject to R 281.57.
- (k) Bridges, subject to R 281.58.
- (l) Forest management activities within the natural vegetation strip, subject to R 281.57.
- (m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river's edge, subject to R 281.57.
- (n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.
- (2) Within the Rogue river natural river district, a natural vegetation strip that includes the river and all lands within 50 feet of the ordinary high-water mark shall be maintained on each side of the Rogue river mainstream. A restrictive cutting belt that includes the river and all lands within 25 feet of the ordinary high-water mark shall be maintained on each side of designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

History: 2004 AACCS; 2013 AACCS.

**R 281.112 Appeals; contested cases.**

Rule 12. An aggrieved party who contests the decision of the zoning administrator or zoning review board shall be granted a hearing if a petition is filed with the director within 60 days after notice of disapproval is received. The hearing shall be conducted pursuant to the provisions for contested cases of 1969 PA 306, MCL 24.201 et seq. and R299.3071 to R 299.3081.

History: 2004 AACCS.

**R 281.113 Violations; effect; remedies.**

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

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

History: 2004 AACCS.

**R 281.114 Boundaries and permitted uses; changes, amendments, and supplements; precedence of local zoning ordinance over rules.**

Rule 14. (1) The director may make changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner following a hearing held pursuant to the provisions of sections 71 to 87 of 1969 PA 306, MCL 24.271 to 24.287, if implementation of the change, amendment, or supplement does not contravene the purposes of these rules as specified in R 281.102.

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

- a) The county register of deeds.
- b) Township and county clerks.
- c) The local building inspector.
- d) Local soil erosion and sedimentation control enforcement agencies.
- e) The conservation district.
- f) County drain commissioner.
- g) Zoning review board members.

(3) A local zoning ordinance that meets all of the requirements of Natural Rivers Part 305 of 1994 PA 451, and either 1943 PA 184, MCL 125.271, or 1943 PA 183, MCL 125.101, whichever is applicable, shall take precedence over these rules. If a local zoning ordinance does not meet all of the requirements of Natural Rivers Part 305 of 1994 PA 451, or if the local ordinance becomes inapplicable to the land area encompassed by the Pine river natural river district through court action or for any other reason, these rules shall apply. A local unit of government may, at any time, request the assistance of the department of natural resources in developing an ordinance that meets the requirements of Natural Rivers Part 305 of 1994 PA 451. The director shall determine if a local ordinance meets all of the requirements of Natural Rivers Part 305 of 1994 PA 451, and shall notify the local unit of government of his or her decision in writing. If the director withdraws his or her approval of a local zoning ordinance, these rules shall apply.

History: 2004 AACCS.

### **R 281.120 Boardman river system boundaries.**

Rule 70. 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 with an effective date of June 2, 1980. The Boardman river natural river zoning district comprises an area which is described as follows:

(a) Mainstream of Boardman river from the confluence of the North Branch Boardman river and the South Branch Boardman river in section 4, T26N, R9W to Brown bridge dam in section 15, T26N, R10W.

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

(c) North Branch Boardman river from U.S. 131 in section 20, T27N, R7W to the confluence with the South Branch Boardman river.

(d) South Branch Boardman river from U.S. 131 in section 16, T26N, R8W to the confluence with the North Branch Boardman river.

(e) Beitner creek from Sawyer road in section 8, T26N, R11W to its confluence with the Boardman river.

- (f) Unnamed stream from the south line of section 9, T26N, R11W to its confluence with Beitner creek.
- (g) Jaxon creek from the south line of section 31, T26N, R10W to its confluence with the Boardman river.
- (h) Swainston creek from the west line of section 8, T25N, R10W to its confluence with the Boardman river.
- (i) Jackson creek from Wood road in section 14, T25N, R10W to its confluence with East creek.
- (j) East creek from the confluence of Bancroft and Parker creeks in section 36, T26N, R10W to its confluence with the Boardman river.
- (k) Parker creek from the north line of the south ½ of section 31, T26N, R9W to the confluence with Bancroft creek.
- (l) Bancroft creek from Sparling road in section 7, T25N, R9W to the confluence with Parker creek.
- (m) Carpenter creek from County road 660 (Supply road) in 13 T26N, R9W to its confluence with Twenty-Two creek.
- (n) Twenty-Two creek from the east line of section 27, T26N, R9W to its confluence with the Boardman river.
- (o) Taylor creek from U.S. 131 in section 15, T26N, R9W to its confluence with the South Branch Boardman river.
- (p) Unnamed stream from its source in section 16, T26N, R9W to its confluence with Taylor creek
- (q) Crofton creek from U.S. 131 in section 2, T26N, R8W to its confluence with the North Branch Boardman river.
- (r) Failing creek from U.S. 131 in section 30, T27N, R7W to its confluence with the North Branch Boardman river.
- (s) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (r) of this rule.
- (t) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (s) of this rule.

History: 2013 AACCS.

**R 281.121 Boardman river system principal uses; natural vegetation strip.**

Rule 71. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

- (a) A single-family dwelling or short-term rental facility with the following provisions:
  - (i) The minimum building setback shall be not less than 150 feet from the ordinary high-water mark on the mainstream from the confluence of the north Branch and South Branch to Brown bridge dam, and 100 feet from the ordinary high-water mark on the mainstream from Brown bridge dam to the north boundary of Grand Traverse county property in section 27, T27N, R11W, Garfield township and on all other designated tributaries except as described in R 281.57.



(ii) Dwellings shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream.

(iii) Building shall not take place on land that is subject to flooding or in any wetland area.

(iv) The natural contour of the face and crest of the bluff shall not be altered.

(v) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field located not less than 100 feet from the ordinary high-water mark and not less than 50 feet from any surface or subsurface drain that discharges into the Boardman river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, shall not be located less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Boardman river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may not be located less than 50 feet from the river's edge on designated tributaries provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after June 2, 1980, with all the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) On all designated segments has at least 200 feet of river frontage, unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the

parcel closest to the river, and is at least 200 feet wide at the minimum building setback line.

(iii) Contains at least 40,000 square feet of area within the natural river district. Any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage, and the front line of the parcel is greater than 150 feet from the river's edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(iv) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.

(v) A lot that exists on June 2, 1980, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after June 2, 1980, shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to R 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river's edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the Boardman river natural river district, a natural vegetation strip that includes the river and all lands within 75 feet of the ordinary high-water mark shall be maintained on each side of the mainstream from the confluence of the north Branch and South Branch to Brown bridge dam. A restrictive cutting belt that includes the river and all lands within 50 feet of the ordinary high-water mark shall be maintained on each side of the mainstream from Brown bridge dam to the north boundary of Grand Traverse county property in section 27, T27N, R11W, Garfield township and on all other designated tributaries. Cutting in the natural vegetation strip is subject to the provisions of R 281.57.

History: 2013 AACCS.

### **R 281.130 Pere Marquette river system boundaries.**

Rule 80. The boundaries of the Pere Marquette river natural river district shall be as described in these rules and as depicted on the certified Pere Marquette river natural river zoning map with an effective date of July 15, 1981. The Pere Marquette river natural river zoning district comprises an area which is described as follows:

(a) The mainstream of the Pere Marquette from the junction of the middle Branch and the little South Branch, commonly known as the "forks" located in section 22, T17N, R13W to Pere Marquette road in section 25, T18N, R18W, excluding that portion of the river within the city of Scottville.

(b) Swan creek from Darr road section 5, T17N, R16W to its confluence with the Pere Marquette river.

(c) Weldon creek from the outfall of Romeo lake in section 9, T18N, R15W to its confluence with the Pere Marquette river.

(d) The Big South Branch from the confluence of Beaver creek with Winnepesaug creek in section 11, T15N, R14W to its confluence with the Pere Marquette river.

(e) Cedar creek from M-37 in section 3, T16N, R13W to its confluence with the Big South Branch.

(f) Ruby creek from its source in section 6, T16N, R15W to its confluence with the Big South Branch.

(g) Carr creek, excluding that portion of the stream which branches north in section 14, T17N, R15W, from Tyndal road in section 18, T17N, R14W to its confluence with the Big South branch.

(h) Sweetwater creek from its source in section 21, T18N, R14W to its confluence with the Pere Marquette river.

(i) Kinney creek from the outfall of Wingleton lake in section 31, T18N, R13W to its confluence with the Pere Marquette river.

(j) Danaher creek from the C & O railroad in section 27, T17N, R13W to its confluence with the Pere Marquette river.

(k) The Baldwin river, excluding that portion in the village of Baldwin, from the outfall of the widewaters in section 32, T19N, R12W to its confluence with the Pere Marquette river.

(l) North Branch of Cole creek, from big spring in section 15, T18N, R12W to its confluence with the South Branch of Cole creek.

(m) South Branch of Cole creek from the west line of section 22, T18N, R12W to its confluence with the North Branch of Cole creek.

(n) Cole creek from the confluence of the North and South Branches of Cole creek in section 20, T18N, R12W to its confluence with the Baldwin river.

(o) Bray creek from the outfall of Bray lake in section 26, T18N, R13W to its confluence with the Baldwin river.

(p) Sanborn creek, excluding that portion in the village of Baldwin, from State road in section 24, T18N, R12W to its confluence with the Baldwin river.

(q) Leverentz creek from the outfall of Leverentz lake in section 35, T18N, R13W to its confluence with the Baldwin river.

(r) The middle branch from Baker road in section 8, T17N, R11W downstream to the "forks."

(s) Blood creek from its source in section 16, T17N, R12W to its confluence with the middle Branch.

(t) The Little South branch from U.S. forest service road 5309 in section 9, T15N, R12W, downstream to the "forks."

(u) McDuffee creek from 13 mile road in section 34 T16N, R12W, downstream to its confluence with the Little South Branch.

(v) The Pease creek from the south line of section 34, T17N, R12W, and from the east line of section 7, 16N, R11W to its confluence with the Little South Branch.

(w) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (v) of this rule.

(x) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (w) of this rule.

History: 2013 AACCS.

**R 281.131 Pere Marquette River system principal uses; natural vegetation strip.**

Rule 81. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with all the following provisions:

(i) The minimum building setback shall be not less than 150 feet from the ordinary high-water mark on the mainstream, the Big South Branch, the Little South Branch, the Middle Branch, and the Baldwin river and 100 feet on all other designated tributaries except as described in R 281.57.

(ii) The setback may be decreased 1 foot for every 1 foot of rise in bank height to a minimum of 100 feet from the ordinary high-water mark on the mainstream and to a minimum of 75 feet from the ordinary high-water mark on all other designated tributaries.

(iii) A dwelling shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream.

(iv) Building shall not take place on land that is subject to flooding or in any wetland area.

(v) The natural contour of the face and crest of the bluff shall not be altered.

(vi) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field located not less than 150 feet from the ordinary high-water mark and not less than 50 feet from any surface or subsurface drain that discharges into the Pere Marquette river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, shall be located not less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Pere Marquette river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries, except the Little South branch, Big South branch, Middle branch and Baldwin river, provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, for any lot created after July 15, 1981, with the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) On the mainstream, Big South branch, Little South branch, Middle branch, and Baldwin river, has at least 200 feet of river frontage (unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river) and is at least 200 feet wide at the minimum building setback line. On all other designated tributaries, has at least 150 feet of river frontage (unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river) and is at least 150 feet wide at the minimum building setback line.

(iii) Contains at least 50,000 square feet of area within the natural river district. Any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage, and the front line of the parcel is greater than 150 feet from the river's edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(iv) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.

(v) A lot that exists on July 15, 1981, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after July 15, 1981, shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to R 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river's edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the Pere Marquette river natural river district, a natural vegetation strip that includes the river and all lands within 75 feet of the ordinary high-water mark shall be maintained on each side of the Pere Marquette river mainstream, Big South branch, Little South branch, Middle branch and Baldwin river. A restrictive cutting belt that includes the river and all lands within 50 feet of the ordinary high-water mark shall be maintained

on each side of all other designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

History: 1992 AACCS; 2013 AACCS.

**R 281.132 Purpose; intent; scope.**

Rule 2. (1) The commission, on its own motion, to implement the intent of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, and in the absence of local zoning to protect the Betsie river, a designated natural river, promulgates these zoning rules for the following purposes:

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

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

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

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

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

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

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

(3) It is not the intent of these rules to revoke, annul, cancel, or in any way impair or interfere with existing provisions of law, ordinances, or any rules, regulations, or premises or with any private restrictions placed upon property by covenant or deed. However, where such provisions of law are less restrictive than the provisions of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, and the rules promulgated thereunder, the provisions of Act No. 231 of the Public Acts of 1970, and the rules promulgated thereunder shall apply.

History: 1992 AACCS.

**R 281.133 Construction of language; severability.**

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

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

History: 1992 AACCS.

**R 281.134 Lot size and area; subdivision of land; home occupations; natural vegetation strip; signs; docks; height of structures.**

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

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

(3) Proposed lots which have preliminary plat approval pursuant to the provisions of Act No. 288 of the Public Acts of 1967, as amended, being S560.101 et seq. of the Michigan Compiled Laws, but which do not meet the dimensional requirements of

these rules on their effective date, shall, on final plat approval, be issued a permit subject to the requirements provided in R 281.139.

(4) Lots of record which are created before the effective date of these rules, or amendments thereto, and which do not possess sufficient land area or lot width may be used for the purposes described within these rules, subject to the requirements provided for in R 281.139.

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

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

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

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

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

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

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

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

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

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

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

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

(a) Docks shall not be more than 4 feet in width and not more than 20 feet in length, with not more than 4 feet of the dock extending over the edge of the river.



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

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

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

History: 1992 AACCS.

**R 281.135 Boundaries; interpretation of boundaries; filing of zoning map.**

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

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

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

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

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

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

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

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

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

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

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

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

(g) Where physical or natural features that exist on the ground are at variance with those shown on the official zoning map or in other circumstances are not covered

by the provisions of subdivisions (a) to (f) of this subrule, the zoning review board shall interpret the district boundaries.

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

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

- (a) The state tax commission.
- (b) Local tax assessing officers.
- (c) Township and county clerks.
- (d) The natural rivers unit of the Michigan department of natural resources.

History: 1992 AACCS.

### **R 281.136 Zoning permits; site plans; certificates of zoning compliance.**

Rule 6. (1) A building or other structure shall not be erected, moved, added to, or structurally altered, and a land use shall not be commenced, without a zoning permit as specified by these rules and as issued by the zoning administrator. Permits shall not be required for exempt activities as specified in R 281.137(1). Plans that are submitted when applying for a zoning permit shall contain the necessary information for determining compliance with these rules.

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

- (a) A site plan drawn to scale, with the scale indicated.
- (b) Property dimensions.
- (c) The size, shape, use, and location of existing and proposed buildings or improvements, including distances to adjacent property boundaries and the river's edge.
- (d) Existing vegetation, including the location and type.
- (e) Adjacent streets and highways.
- (f) Parking areas.
- (g) Bluff heights.
- (h) Entrances to public streets.
- (i) A description of the building design, including proposed construction materials.
- (j) Drainage facilities.
- (k) The location and description of the method to dispose of sanitary wastes.

- (l) Proposed landscaping.
  - (m) The location of footpaths.
  - (n) Signs proposed, including the size, location, and material.
  - (o) North arrow.
  - (p) Date of drawing.
  - (q) Detailed site location map.
  - (r) Any additional information deemed by the zoning administrator or zoning review board to be necessary to carry out the administrator's or board's duties.
- Examples of such information include the following:

- (i) Soil types.
- (ii) Topography.
- (iii) Building elevations.
- (iv) Site photographs.
- (v) Anticipated traffic volumes.
- (vi) Traffic circulation patterns.
- (vii) Other pertinent site information.

(3) A building, structure, or lot for which a zoning permit has been issued shall not be occupied, and a use for which a zoning permit has been issued shall not commence, until the zoning administrator has, after final inspection, issued a certificate of zoning compliance indicating compliance with all of the provisions of these rules. However, the issuance of a certificate of compliance shall not be construed as waiving any provision of these rules. A building that is accessory to a dwelling shall not require a separate certificate of zoning compliance, but may be included in the certificate of zoning compliance for the dwelling if shown on the site plan and if completed at the same time as the dwelling. A record of all certificates that are issued shall be kept on file in the office of the zoning administrator. Certificates of zoning compliance are for the purposes of these rules and shall not be interpreted as substitutes for certificates of occupancy that are required by local building codes.

History: 1992 AACCS.

### **R 281.137 Land use and development standards.**

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

(a) Exempt uses are uses which are permitted by right and which are not subject to the receipt of a zoning permit. Exempt uses include all of the following:

(i) Private, noncommercial recreation which does not involve permanent structures, equipment, or other devices, but which includes camping, boating, fishing, hunting, and other similar activities.

(ii) Reforestation and other accepted forest management practices, subject to the limitations specified in R 281.134(6)(b).

(iii) Agriculture, including general and specialized farming, unless the bureau of environmental protection of the Michigan department of natural resources determines that such use will significantly contribute to stream degradation.

(iv) The operation of licensed motor vehicles on dedicated public roads or private roads that are designed to provide access to a permitted use.

(v) The off-road operation of emergency and public utility maintenance vehicles. The off-road operation of other motorized vehicles is prohibited in the natural vegetation strip as specified in R 281.134(6).

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

(vii) Signs, subject to the provisions of R 281.134(7).

(b) Principal uses are uses which are allowed by right, but which require the issuance of zoning permits by the zoning administrator. Principal uses include all of the following:

(i) Single-family dwellings, if all of the following provisions are complied with:

(A) Only 1 dwelling shall be permitted per lot of record.

(B) Each lot shall be not less than 50,000 square feet.

(C) The dwelling lot shall have a minimum average width of 200 feet throughout its length.

(D) Building setback for lots, including all appurtenances and accessory buildings, shall be not less than 200 feet from the ordinary high watermark on the main stream and 100 feet on the Little Betsie river and Dair creek. The setback may be decreased 5 feet for every 1 foot of rise in bank height above 5 feet above the ordinary high watermark, to a minimum of 150 feet from the ordinary high watermark on the main stream. Buildings and appurtenances shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream. Building shall not take place on land that is subject to flooding.

(ii) Accessory buildings that meet the setback requirements of paragraph (i) of this subdivision.

(iii) A private boat dock.

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

(v) Disposal fields and septic tanks, if all of the following provisions are complied with:

(A) The fields and tanks shall be located not less than 150 feet from the ordinary high watermark.

(B) A septic tank or absorption field shall not be located closer than 100 feet to any surface or subsurface drainage system that enters into the Betsie river or its designated tributaries.

(C) The bottom of the pit associated with an earth privy shall not be less than 4 feet above the known high groundwater table.

(vi) Mining and extracting industries, if located not less than 300 feet from the ordinary high watermark.

(vii) Residential single-family dwelling plats, if the minimum standards specified in paragraph (i) of this subdivision are met.

(viii) Home occupations.

(ix) Land alteration, such as grading, dredging, and filling of the land surface, unless the high groundwater table is within 4 feet of the existing natural land surface.

(c) The Betsie river natural river plan and these rules recognize that certain types of residential, recreational, and commercial uses may be appropriate for the natural river district that have not been identified under the exempt and principal uses provisions of this rule. Such uses may result in intensities of development and use higher than would be anticipated under the exempt and principal uses. To ensure that such uses do not contravene the goals and objectives of the Betsie river natural river plan and these rules such uses shall be referred to as special uses and shall be subject to the review and approval of the zoning review board. Special uses and their development standards include all of the following:

(i) Detached rental cabins, if all of the following provisions are complied with:

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

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

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

(D) Boat docks may be erected for the private use of occupants of the rental cabins and their guests. Docks shall be in compliance with the requirements of R 281.134 and both of the following provisions:

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

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

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

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

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

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

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

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

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

(1) The total number of docks shall not be more than 1 dock for each 200 feet of river frontage.

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

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

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

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

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

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

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

History: 1992 AACCS.

**R 281.138 Application and approval; procedures and standards; principal uses and special uses.**

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

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

(i) A completed application form that is signed by the applicant or the applicant's representative.

(ii) Two copies of a site plan that meets the requirements of R 281.136(2).

(iii) Evidence of ownership or a legal interest in the property that is affected by the application for a principal use.

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

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

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

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

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

permit expiration. Any subsequent extensions shall have the written approval of the zoning review board.

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

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

(i) A completed application form that is signed by the applicant or the applicant's representative.

(ii) Eight copies of a site plan that meets the requirements of R 281.136(2).

(iii) Evidence of ownership or a legal interest in the property that is affected by the application for a special use.

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

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

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

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

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

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

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

(B) Local tax assessing officials.

(C) Township and county clerks.

(D) Local building inspectors.

(d) In considering a special use application, the zoning review board shall require that all of the following general standards, in addition to those specific standards established for each special use in R 281.137(c), be satisfied:

(i) That the purposes noted in R 281.132 are accomplished.

(ii) That a compelling reason exists to locate the proposed use within the district boundaries if contiguous property under the same ownership is available outside the district.

(iii) That the proposed use in combination with other existing uses will not be a detriment to the public health, safety, and welfare.

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

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

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

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

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

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

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

History: 1992 AACCS.

### **R 281.139 Variances and variance hearings.**

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

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

(a) How substantial the variance is in relation to the zoning requirements.

(b) Whether a substantial change will be affected in the character of the area or a substantial detriment created for adjoining properties.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The use will be adequately served by existing essential public facilities and services, such as highways, police and fire protection, drainage structures, refuse disposal, and sanitation facilities, or that the persons or agencies that are responsible for the establishment of the proposed use shall be able to adequately provide any such service.

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

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

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

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

(7) Upon receipt of an application for a variance, the zoning review board shall conduct a hearing on the request, except as provided for in subrule (3) of this rule. The hearing and notice procedure shall follow that established for special use applications by the provisions of R 281.138(2)(c). A decision shall be made within 30 days after the hearing to approve or deny the variance request. The zoning review board shall keep complete and detailed records of all its proceedings, which shall include the minutes of its meetings, its findings, and actions taken on each matter heard by it, including the final order. The order shall include the legal description of the property involved. Reasons for the decision shall be stated in writing. The board shall record the vote of each member on each question. If a member is absent or fails to vote, the board shall indicate such fact. All records shall be open for public inspection. The concurring vote of a majority of the members of the zoning review board shall be necessary to effect a dimensional variance in these rules, except that a concurring vote of 2/3 of the members of the board of appeals shall be necessary to grant a land use variance permitted in these rules.

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

(9) The effect of any variance shall be to create a nonconforming land use or structure which shall then be subject to the terms of R 281.140, which regulates continued use.

History: 1992 AACCS.

### **R 281.140 Rifle river system boundaries.**

Rule 90. The boundaries of the Rifle river natural river district shall be as described in these rules and as depicted on the certified Rifle river natural river zoning map with an effective date of April 24, 1984. The Rifle river natural river zoning district comprises an area which is described as follows:

- (a) The mainstream of the Rifle river from and including Mallard pond in section 2, R23N, R3E to the northern city limits of Omer in section 10, T19N, R5E, including all channels of the mainstream, except the old channels leading into and out of Devoe lake.
- (b) Gamble creek from Heath road in section 25, T24 N, R3E, to Mallard pond.
- (c) Vaughn creek from Heath road in section 27, T24N, R3E, to its confluence with Gamble creek.
- (d) Oyster creek from Oyster road in section 22, T24N, R3E, to its confluence with Mallard pond.
- (e) Mayhue creek from the pond in section 28, T24N, R3E, to its confluence with Oyster creek.
- (f) Houghton creek from Heath road in 30, T24N, R3E, to its confluence with the Rifle river.
- (g) Wilkins creek from Campbell road in section 11, T23N, R2E, to its confluence with the Rifle river.
- (h) Prior creek from Morrison road in section 19, T23N, R3E, to its confluence with the Rifle river.
- (i) Klacking creek from its source in Foose swamp in section 34, T23N, R2E, to its confluence with the Rifle river.
- (j) Little Klacking creek from its source in section 26, T23N, R2E, to its confluence with Klacking creek.
- (k) Dedrich creek from Gerald Miller road in section 22, T22N, R3E, to its confluence with the Rifle river.
- (l) West Branch Rifle river from the outfall of Flowage lake in section 32 T22N, R2E, to its confluence with the Rifle river.
- (m) North and south branches of Eddy creek from M-33 in sections 12 and 13, T21N, R2E, to its confluence with the Rifle river.
- (n) Silver creek from Elbow lake road in section 11, T21N, R3E, to its confluence with the Rifle river.
- (o) Mansfield creek from Melita road in section 30, T21N, R4E, to its confluence with the Rifle river.
- (p) Fritz creek from Fritz road in section 34, T20N, R4E, to its confluence with the Rifle river.
- (q) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (p) of this rule.
- (r) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (q) of this rule.

History: 1992 AACS; 2013 AACS.

**R 281.141 Rifle river system principal uses; natural vegetation strip.**

Rule 91 (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

- (a) A single-family dwelling or short-term rental facility with all the following provisions:

(i) The minimum building setback shall be not less than 150 feet from the ordinary high-water mark on the mainstream and 100 feet on all designated tributaries except as described in R 281.57.

(ii) The setback may be decreased 1 foot for every 1 foot of rise in bank height to a minimum of 100 feet from the ordinary high-water mark on the mainstream and to a minimum of 75 feet from the ordinary high-water mark on all other designated tributaries.

(iii) A dwelling shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream.

(iv) Building shall not take place on land that is subject to flooding or in any wetland area.

(v) The natural contour of the face and crest of the bluff shall not be altered.

(vi) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to the provisions of R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

(i) A septic tank and disposal field must meet local health department standards.

(ii) A disposal field located not less than 150 feet from the ordinary high-water mark and not less than 50 feet from any surface or subsurface drain that discharges into the Rifle river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, not located less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Rifle river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after April 24, 1984, with the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) On the mainstream, has at least 200 feet of river frontage (unless a riverfront “common area” subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river) and is at least 200 feet wide at the minimum building setback line.

(iii) On designated tributaries, has at least 150 feet of river frontage, unless a riverfront “common area” subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and is at least 150 feet wide at the minimum building setback line.

(iv) Contains at least 50,000 square feet of area within the natural river district. Any “common area” created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage, and the front line of the parcel is greater than 150 feet from the river’s edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(v) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.

(vi) A lot that exists on April 24, 1984, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after April 24, 1984, shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to R 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river’s edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the Rifle river natural river district, a natural vegetation strip that includes the river and all lands within 75 feet of the ordinary high-water mark shall be maintained on each side of the Rifle river mainstream. A restrictive cutting belt that includes the river and all lands within 50 feet of the ordinary high-water mark shall be maintained on each side of designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

History: 1992 AACCS; 2013 AACCS.

### **R 281.142 Appeals; contested cases.**

Rule 12. An aggrieved party who contests the decision of the zoning administrator or zoning review board shall be granted a hearing if a petition is filed with the

director within 60 days after notice of disapproval is received. The hearing shall be conducted pursuant to the provisions for contested cases of Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws, and R 299.3071 to R 299.3081.

History: 1992 AACCS.

**R 281.143 Violations; effect; remedies.**

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

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

History: 1992 AACCS.

**R 281.144 Boundaries and permitted uses; changes, amendments, and supplements; precedence of local zoning ordinance over rules.**

Rule 14. (1) The commission may make changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner following a hearing held pursuant to the provisions of sections 71 to 87 of Act No. 306 of the Public Acts of 1969, as amended, being SS24.271 to 24.287 of the Michigan Compiled Laws, if implementation of the change, amendment, or supplement does not contravene the purposes of these rules as specified in R 281.132.

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

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

(3) Upon approval by the director, a local zoning ordinance that meets all of the requirements of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, Act No. 184 of the Public Acts of 1943, as amended, being

S125.271 et seq. of the Michigan Compiled Laws, or Act No. 183 of the Public Acts of 1943, as amended, being S125.101 et seq. of the Michigan Compiled Laws, whichever is applicable, shall take precedence over these rules. If the director withdraws his or her approval of a local zoning ordinance, or if the local ordinance becomes inapplicable to the land area encompassed by the Betsie river natural river district through court action or for any other reason, these rules shall apply.

History: 1992 AACCS.

**R 281.145 Rescission.**

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

History: 1992 AACCS.

**R 281.150 Flat river system boundaries.**

Rule 100. The boundaries of the Flat river natural river district shall be as described in these rules and as depicted on the certified Flat river natural river zoning map with an effective date of June 21, 1984. The Flat river natural river zoning district comprises an area which is described as follows:

(a) The mainstream of the Flat river from the M-46/M-66 bridge in section 15, T12N, R7W to the northern limits of the city of Lowell in section 35, T7N, R9W, excluding those portions that flow through the incorporated city limits of Greenville and Belding.

(b) West Branch creek from its source in section 18, T11N, R8W to its confluence with the Flat river.

(c) Clear creek from Lincoln lake avenue in section 27, T10N, R9W to its confluence with Coopers creek.

(d) Coopers creek from Lincoln lake avenue, in section 34, T10N, R9W to its confluence with the Flat river.

(e) Wabasis creek from Mills avenue in section 24, T9N, R9W to its confluence with the Flat river.

(f) Dickerson creek from Sidney road section 18, T10N, R7W to its confluence with the Flat river.

(g) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (f) of this rule.

(h) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (g) of this rule.

History: 2013 AACCS.

**R 281.151 Flat river system principal uses; natural vegetation strip.**

Rule 101 (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with all the following provisions:

(i) The minimum building setback shall be not less than 100 feet from the ordinary high-water mark on the mainstream and all designated tributaries, except as described in R 281.56 (7), or shall be not less than 25 feet from the 100-year floodplain line, whichever is the greater distance from the river's edge.

(ii) A dwelling shall be set back not less than 50 feet from the top of a bluff.

(iii) Building shall not take place on land that is subject to flooding or in any wetland area.

(iv) The natural contour of the face and crest of the bluff shall not be altered.

(v) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field located not less than 100 feet from the ordinary high-water mark on the mainstream and all designated tributaries and not less than 100 feet from any surface or subsurface drain that discharges into the Flat river or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) The septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, located not less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Flat river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries, provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.



(h) A land division, if any lot created after June 21, 1984, with all the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) Has at least 100 feet of river frontage, unless a riverfront “common area” subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and is at least 100 feet wide at the minimum building setback line.

(iii) Contains at least 30,000 square feet of area within the natural river district. Any “common area” created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage, and the front line of the parcel is greater than 150 feet from the river’s edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(iv) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to the standards in this rule.

(v) A lot that exists on June 21, 1984, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after June 21, 1984, shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to R 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river’s edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the Flat river natural river district, a natural vegetation strip that includes the river and all lands within 25 feet of the ordinary high-water mark shall be maintained on each side of the Flat river mainstream and all designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

History: 1981 AACCS; 2013 AACCS.

### **R 281.152 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 S281.761 et seq. of the Michigan Compiled Laws, and in the absence of local zoning to protect the Huron 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 Huron river and adjoining land.

(c) To prevent flood damage due to interference with natural floodplain characteristics by excluding developments which are vulnerable to flood damages 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: 1981 AACCS.

**R 281.153 Boundaries; rules of construction; display and filing of zoning map; effect of zoning rules.**

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

(a) The mainstream of the Huron river from Kent lake dam downstream to the western edge of section 32 of Hamburg township, Livingston county, excluding Strawberry, Gallagher, Loon, which is also known as Long or Little Gallagher, and the 2 Whitewood lakes; and from John Flook dam downstream to the Scio-Ann Arbor township line in Washtenaw county, excluding the incorporated village of Dexter.

(b) Davis creek, which is also called the southeast branch of the Huron river, Livingston county, Green Oak township, from the outfall of Sandy Bottom lake to its confluence with the Huron river.

(c) Arms creek, Washtenaw county, Webster township, from the confluence of the 2 branches in section 10 to its confluence with the Huron river.

(d) Mill creek, Washtenaw county, Scio township, from Parker road downstream to the incorporated village limits of Dexter.

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

(2) Certified copies of the Huron 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 Huron 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) Huron river watershed 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 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 S282.101 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 S281.951 et seq. of the Michigan Compiled Laws.

(c) All development and land uses in the Huron 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 Huron 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 Huron 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 Huron 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: 1981 AACCS.

#### **R 281.154 Zoning permits; application; additional requirements.**

Rule 4. (1) A person shall not commence excavation, erection, alteration, or repair on a building or structure, or commence a land use, until a zoning permit has been obtained from the zoning administrator. If the alteration 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 give 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 or 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 applicant.

(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: 1981 AACCS.

### **R 281.155 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 which have preliminary plat approval pursuant to Act No. 288 of the Public Acts of 1967, as amended, being S560.101 et seq. of the Michigan

Compiled Laws, but which do not meet the dimensional requirements of these rules on their effective date shall, on final plat approval, be issued a permit subject to the requirements provided in R 281.159.

History: 1981 AACS.

**R 281.156 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 S281.1001 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 281.157.

(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 150 front-foot wide, subject to the following limitations:

(i) On the designated portion of the mainstream, new buildings and appurtenances shall be required to set back a minimum of 125 feet from the ordinary high-water mark, except that the setback may be decreased 10 feet for every 10-foot rise in bank height to a minimum of 75 feet from the ordinary high-water mark.

(ii) On the sections of Arms, Davis, and Mill creeks within the natural river zoning district, new buildings and appurtenances shall be required to set back a minimum of 50 feet from the ordinary high-water mark.

(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) Setback 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 6 feet in width or 20 feet in length, with not more than 4 feet 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 S281.951 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 125 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 Huron 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 S282.101 et seq. of the Michigan Compiled Laws, and Act No. 346 of the Public Acts of 1972, being S281.951 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) For residential uses, signs shall not be larger than 1 square foot in area and shall not be posted more than 1 per 100 feet or 1 sign at the upstream and downstream corner of the 1 lot; however, 1 temporary real estate "for sale" sign which does not exceed 4 square feet in area shall be allowed on a parcel of land.

(iii) For commercial uses, 1 sign per establishment which does not exceed 4 square feet is allowed.

(iv) They shall not be illuminated by a neon light or flashing device.

(v) 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 281.158, R 281.159, and R 281.161.

History: 1981 AACCS.

### **R 281.157 Natural vegetation strip.**

Rule 7. Within the natural river district, a 50-foot minimum restrictive cutting belt shall be maintained on each side of the mainstream of the Huron river and on Arms, Davis, and Mill creeks. 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) Selected removal or trimming of trees for timber harvest, access or 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: 1981 AACS.

### **R 281.158 Special exception permits.**

Rule 8. (1) Special exception permits may be granted to allow a use in the natural river district which is specifically permitted by R 281.156, if implementation of that use does not contravene the purposes of these rules as specified in R 281.152.

(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) The size, location, and spatial arrangement of all proposed and existing structures on the site.

(iv) The location and elevations 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) The Huron river watershed 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 281.152.
  - (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 damages 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 proven 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: 1981 AACCS.

### **R 281.159 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 Huron river natural river plan, and Act No. 231 of the Public Acts of 1970, being S281.761 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 281.156(2)(a) and is, therefore, ineligible for consideration for use under R 281.156.
- (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 281.154(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 S323.1 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 281.156(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 281.158(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: 1981 AACCS.

### **R 281.160 Pigeon river system boundaries.**

Rule 110. The boundaries of the Pigeon river natural river district shall be as described in these rules and as depicted on the certified Pigeon river natural river zoning map with an effective date of February 13, 1985. The Pigeon river natural river zoning district comprises an area that is described as follows:

(a) The mainstream of the Pigeon river from its source in section 30, T31N, R2W to the Hackleburg road (East Mullett Lake road) bridge.

(b) Unnamed stream from its source in section 31, T31N, R2W to its confluence with the Pigeon river.

(c) Unnamed stream from its source in section 30, T31N, R2W to its confluence with the Pigeon river.

(d) Unnamed stream from its source in section 5, T30N, R2W to its confluence with the Pigeon river

(e) Unnamed stream from its source in section 28, T31N, R2W to its confluence with the Pigeon river.

(f) Slade creek from its sources in sections 27, 34 and 35, T31N, R2W to its confluence with the Pigeon river

(g) Duck creek from the south line of section 2, T30N, R2W to its confluence with the Pigeon river.

(h) Unnamed stream from its source in section 24, T31N, R2W to its confluence with the Pigeon river.

(i) Grass lake outlet from the outlet of Grass lake in section 5, T32N, R1W to its confluence with the Pigeon river.

(j) Unnamed stream from its source in section 29, T33N, R1W to its confluence with the Pigeon river.

(k) Cornwall creek from its source in section 35, T33N, R1W to its confluence with the Pigeon river.

(l) Grindstone creek from its source in section 17, T33N, R1W to its confluence with the Pigeon river.

(m) McIntosh creek from its sources in sections 28 and 33, T34N, R1W to its confluence with the Pigeon river.

- (n) Nelson creek from its source in section 29, T33N, R1W to its confluence with the Pigeon river.
- (o) The Little Pigeon river from its source in section 1, T32N, R2W to its confluence with the Pigeon river.
- (p) Molby creek from its sources in sections 24 and 25, T33N, R2W to its confluence with the Little Pigeon river.
- (q) Burrows creek from its source in section 14, T33N, R2W to its confluence with the Little Pigeon river.
- (r) Unnamed stream from its source in section 12, T33N, R2W to its confluence with the Little Pigeon river.
- (s) Unnamed stream from its source in section 23, T34N, R2W to its confluence with the Pigeon river
- (t) Wilkes creek from its source in section 16, T34N, R1W to its confluence with the Pigeon river.
- (u) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (t) of this rule.
- (v) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (u) of this rule.

History: 1981 AACCS; 2013 AACCS.

**R 281.161 Pigeon river system principal uses; natural vegetation strip.**

Rule 111. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

- (a) A single-family dwelling or short-term rental facility with all the following provisions:
  - (i) The minimum building setback not less than 200 feet from the ordinary high-water mark on the mainstream and 150 feet on all designated tributaries, except as described in R 281.57.
  - (ii) A dwelling set back not less 50 feet from the top of a bluff.
  - (iii) Building shall not take place on land that is subject to flooding or in any wetland area.
  - (iv) The natural contour of the face and crest of the bluff shall not be altered.
  - (v) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.
- (b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.
- (c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.
- (d) One private river access stairway per parcel, subject to R 281.57.
- (e) Utility lines to service a single-family dwelling or short-term rental facility.
- (f) A disposal field, septic tank, and outhouse, with all the following provisions:
  - (i) The septic tank and disposal field meet local health department standards.
  - (ii) The disposal field shall be located not less than 150 feet from the ordinary high-water mark on the mainstream and all designated tributaries and not less than 50 feet

from any surface or subsurface drain that discharges into the Pigeon river or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) The septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, not located less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Pigeon river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 75 feet from the river's edge on designated tributaries, provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after February 13, 1985, with all the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) On the mainstream, has at least 200 feet of river frontage, unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and is at least 200 feet wide at the minimum building setback line. On designated tributaries, has at least 150 feet of river frontage, unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and is at least 150 feet wide at the minimum building setback line.

(iii) Contains at least 50,000 square feet of area within the natural river district. Any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage, and the front line of the parcel is greater than 150 feet from the river's edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(iv) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.

(v) A lot that exists on February 13, 1985, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after February 13, 1985, shall meet the minimum requirements of this rule, except as provided in R 281.56.

- (i) Home occupations and home-based occupations, subject to R 281.57.
- (j) Land alteration, subject to R 281.57.
- (k) Bridges, subject to R 281.58.
- (l) Forest management activities within the natural vegetation strip, subject to R 281.57.
- (m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river's edge, subject to R 281.57.
- (n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.
- (2) Within the Pigeon river natural river district, a natural vegetation strip that includes the river and all lands within 100 feet of the ordinary high-water mark shall be maintained on each side of the Pigeon river mainstream. A restrictive cutting belt that includes the river and all lands within 75 feet of the ordinary high-water mark shall be maintained on each side of all designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

History: 1981 AACS; 2013 AACS..

**R 281.162 Zoning administrator and zoning review board; appointment; 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: 1981 AACS.

**R 281.163 Violations.**

Rule 13. (1) An alleged violation shall be inspected by the staff of the department and, if it is found that a violation exists, 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 S281.773 of the Michigan Compiled Laws.

History: 1981 AACS.

**R 281.164 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 281.152.

(2) 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 SS24.271 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) Huron river watershed 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 S281.761 et seq. of the Michigan Compiled Laws, Act No. 184 of the Public Acts of 1943, as amended, being S125.271 et seq. of the Michigan Compiled Laws, or Act No. 183 of the Public Acts of 1943, as amended, being S125.101 et seq. of the Michigan Compiled Laws, whichever is applicable, shall take precedence over these rules. If the director withdraws his or her approval of a local zoning ordinance, or if the local ordinance becomes inapplicable to the land area encompassed by the Huron river natural river district through court action or for any other reason, these rules shall apply.

History: 1981 AACCS.

### **R 281.170 Au Sable River system boundaries.**

Rule 120. The boundaries of the Au Sable river natural river district shall be as described in these rules and as depicted on the certified Au Sable river natural river zoning map with an effective date of August 15, 1990. The Au Sable river natural river zoning district comprises an area which is described as follows:

- (a) The Au Sable river from the confluence of Kolka creek and Bradford creek in section 23, T28N, R4W to Loud dam in section 21, T24N, R6E.
- (b) Kolka creek from the outfall of Lynn lake in section 26, T29N, R4W to its confluence with Bradford creek in section 23, T28N, R4W.
- (c) Bradford creek from the outfall of Big Bradford lake in section 6, T28N, R3W to its confluence with Kolka creek in section 23, T28N, R4W.
- (d) East Branch Au Sable river, from the outfall of Barnes lake in section 7, T28N, R2W to its confluence with the Au Sable river.
- (e) South Branch Au Sable river, from highway M-76 in section 5 T23N, R1W to its confluence with the Au Sable river.

- (f) Douglas creek from its source in section 16, T25N, R1W to its confluence with the South branch Au Sable river.
- (g) Thayer creek from its source in section 16, T25N, R2W to its confluence with the South branch Au Sable river.
- (h) Hudson creek from its source in section 26, T24N, R2W to its confluence with the South branch Au Sable river.
- (i) Robinson creek from its source in section 7, T23N, R2W to its confluence with the South branch Au Sable river.
- (j) Beaver creek from its source in section 25, T25N, R4W to its confluence with the South branch Au Sable river.
- (k) East creek from its source in section 13, T24N, R1W to its confluence with the South branch Au Sable river.
- (l) South creek from its source in section 35, T24N, R1W to its confluence with the South branch Au Sable river.
- (m) North branch Au Sable river, from Ski Slope drive in section 34, T30N, R3W county to its confluence with the Au Sable river.
- (n) Turtle creek from the outfall of Turtle lake in section 33, T30N, R2W to its confluence with the North branch of the Au Sable.
- (o) Chub creek from the outfall of Bridge lake in section 23, T29N, R3W to its confluence with the North branch of the Au Sable.
- (p) Big creek from the confluence of the east branch of Big creek and the west branch of Big creek in section 23, T27N, R1W to its confluence with the north branch of the Au Sable river.
- (q) West branch, Big creek, from the outfall of Caulkins lake in section 14, T29N, R1W to its confluence with the east branch of Big creek in section 23, T27N, R1W.
- (r) Middle branch, Big creek, from the outfall of West Twin lake in section 32, T29N, R1E to its confluence with the east branch of Big creek in section 13, T27N, R1W.
- (s) East branch, Big creek, from the north line of section 27, T28N, R1E to its confluence with the west branch of Big creek in section 23, T27N, R1W.
- (t) Big creek from the confluence of the east branch of Big creek and the west branch of Big creek in section 24, T26N, R1E to its confluence with the Au Sable river in section 1, T26N, R1E.
- (u) West branch, Big creek, from its source in section 1, T24N, R1E to its confluence with the east branch of Big creek in section 24, T26N, R1E.
- (v) East branch, Big creek, from its source in section 10, T25N, R2E to its confluence with the west branch of Big creek in section 24, T26N, R1E.
- (w) Sohn creek from its source in section 20, T27N, R1E to its confluence with the Au Sable river.
- (x) Beaver creek from the east line of section 26, T27N, R1E to its confluence with the Au Sable river.
- (y) Wolf creek from its source in section 19, T26N, R3E to its confluence with the Au Sable river.
- (z) Loud creek from its source in section 29, T26N, R3E to its confluence with the Au Sable river.
- (aa) Perry creek from the outfall of Perry lake in section 9, T27N, R3E to its confluence with the Au Sable river.

(bb) Comins creek from its source in section 27, T27N, R3E to its confluence with the Au Sable river.

(cc) Glennie creek from its source in section 30, T27N, R4E to its confluence with the Au Sable river.

(dd) Nine mile creek from its source in section 28, T26N, R4E to its confluence with the Au Sable river.

(ee) Blockhouse creek from its source in section 28, T27N, R4E to its confluence with the Au Sable river.

(ff) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (ee) of this rule.

(gg) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (ff) of this rule.

History: 2013 AACCS.

**R 281.171 Au Sable river system principal uses; natural vegetation strip.**

Rule 121. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with all the following provisions:

(i) The minimum building setback not less than 200 feet from the ordinary high-water mark on the mainstream, north branch and south branch, and 100 feet on all other designated tributaries, except as described in R 281.57.

(ii) The setback may be decreased 1 foot for every 1 foot rise in bank height to a minimum of 150 feet from the ordinary high-water mark on the mainstream, north branch and south branch, and to a minimum of 75 feet from the ordinary high-water mark on all other designated tributaries.

(iii) A dwelling shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream.

(iv) Building shall not take place on land that is subject to flooding or in any wetland area.

(v) The natural contour of the face and crest of the bluff shall not be altered.

(vi) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field located not less than 150 feet from the ordinary high-water mark and not less than 100 feet from any surface or subsurface drain that discharges into the



Au Sable river or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, located not less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Au Sable river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries, except the north branch and south branch, provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after August 15, 1990, with all the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) On the mainstream, north branch and south branch, has at least 200 feet of river frontage, unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and at least 200 feet wide at the minimum building setback line.

(iii) On all other tributaries, has at least 150 feet of river frontage, unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and at least 150 feet wide at the minimum building setback line.

(iv) Contains at least 50,000 square feet of area within the natural river district. Any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage, and the front line of the parcel is greater than 150 feet from the river's edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(v) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.

(vi) A lot that exists on August 15, 1990, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after August 15, 1990, shall meet the minimum requirements of this rule, except as provided in R 281.56.

- (i) Home occupations and home-based occupations, subject to R 281.57.
  - (j) Land alteration, subject to R 281.57.
  - (k) Bridges, subject to R 281.58.
  - (l) Forest management activities within the natural vegetation strip, subject to R 281.57.
  - (m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river's edge, subject to R 281.57.
  - (n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.
- (2) Within the Au Sable river natural river district, a natural vegetation strip that includes the river and all lands within 75 feet of the ordinary high-water mark shall be maintained on each side of the Au Sable river mainstream, north branch, and south branch. A restrictive cutting belt that includes the river and all lands within 50 feet of the ordinary high-water mark shall be maintained on each side of all designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

History: 2004 AACCS; 2013 AACCS.

**R 281.172 Purpose; intent; scope.**

Rule 2. (1) The director, on his or her own motion, to implement the intent of Natural Rivers Part 305 of 1994 PA 451, and in the absence of local zoning to protect the Upper Manistee river, a designated natural river, promulgates these rules for the following purposes:

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

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

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

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

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

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

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

(3) It is not the intent of these rules to revoke, annul, cancel, or in any way impair or interfere with existing provisions of law, ordinances, or any rules, regulations, or premises or with any private restrictions placed upon property by covenant or deed. However, where such provisions of law are less restrictive than the provisions of Natural Rivers Part 305 of 1994 PA 451, and the rules promulgated thereunder, the provisions of Natural Rivers Part 305 of 1994 PA 451 and the rules promulgated thereunder shall apply.

History: 2004 AACCS.

**R 281.173 Construction of language: severability.**

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

- (a) A "building" or "structure" includes any part thereof.
- (b) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
- (c) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- (d) The terms "lot" and "parcel" have the same meaning.
- (e) Terms not defined in these rules shall have the meanings customarily assigned to them.

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

History: 2004 AACCS.

**R 281.174 Lot size and area; subdivision of land; home and home-based occupations; native vegetation buffer; signs; docks; height of structures; river access stairways; dams; impervious surfaces.**

Rule 4. (1) Unless otherwise provided for in these rules, a lot created after the effective date of these rules shall meet all of the following standards on at least 1 side of the stream that is accessible by a public road or legal easement:

(a) Have at least 200 feet of river frontage (unless a riverfront "common area" subject to a conservation easement is established, or the parent parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river) and be at least 200 feet wide at the minimum building setback line.

(b) Contain at least 1/2 acre of existing contiguous upland buildable area (non-wetland, non-floodplain) landward of the minimum building setback line.

(c) Contain at least 80,000 square feet of area within the Natural River District (any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area). If the parent parcel does not have river frontage, and the front line of any newly created parcel is

greater than 100 feet from the river's edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(d) Have sufficient depth to accommodate the required building setbacks pursuant to R 281.177.

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

(3) Proposed lots which have preliminary plat approval pursuant to 1967 PA 288, MCL 560.101, but which do not meet the dimensional requirements of these rules on their effective date, shall, on final plat approval, be issued a permit subject to the requirements in R 281.179 and R 281.180.

(4) Lots of record which are created before the effective date of these rules, and which do not possess sufficient land area or lot width may be used for the purposes described in these rules, subject to the requirements in R 281.179 and R 281.180.

(5) Home occupations and home-based occupations shall conform to all of the following requirements:

(a) The use of the dwelling unit, or related structure, for a home occupation or home-based occupation shall be clearly incidental and subordinate to its use for residential purposes.

(b) Equipment or a process shall not be used in a home occupation or home-based occupation if it creates noise, vibration, fumes, odors, or electrical interference that is detectable to the normal senses off the premises.

(6) Within the natural river district, a native vegetation buffer that includes the river and all lands within 75 feet of the ordinary high watermark shall be maintained on each side of the Upper Manistee river mainstream and all designated tributaries. Trees and shrubs may be pruned over not more than a 50-foot width for a filtered view of the river, but clear cutting in the native vegetation buffer is prohibited. The native vegetation buffer is also subject to all of the following provisions:

(a) Unsafe trees and noxious plants and shrubs, such as poison ivy and poison sumac, may be removed.

(b) The selected removal or trimming of trees for forest management practices or disease and insect control, and clearing of vegetation to the minimum width required for public utility primary electric distribution lines and service lines for permitted uses, is permitted upon approval of the zoning administrator in consultation with local Conservation District staff, if the activity is in keeping with the goals and objectives of the Natural River Plan.

(c) Camping other than low-impact tent camping is not permitted in the native vegetation buffer.

(d) Mowing is prohibited in the native vegetation buffer except in areas that had been maintained in a mowed condition prior to adoption of these rules or to establish a footpath to the river not to exceed 4 feet wide.

(e) In the Manistee River mainstream vegetation may be selectively pruned to allow for safe navigation and to alleviate flooding that threatens a dwelling. This may include pruning of a maximum 8-foot wide section of vegetation. Portions of trees, logs, and other natural material imbedded in the stream channel may not be disturbed.

(f) A boardwalk constructed in conjunction with the footpath described in subdivision (d) of this subrule is permitted upon approval of the zoning administrator if it is placed

only in areas that are generally too wet to be traversed without significant disturbance of the soils, the boardwalk and supports are constructed of wood, the boardwalk is not more than 3 feet wide and does not include railings, and the top of the boardwalk is not more than 12 inches above grade.

(g) All islands in all stream segments are subject to the native vegetation buffer standards.

(h) A wider native vegetation buffer may be required for certain commercial uses.

(7) Signs for identification, direction, resource information, regulation of use and those related to permitted uses are allowed. Signs for the sale of products or services are prohibited, unless related to a permitted use, located on the site of the permitted use, not located in the native vegetation buffer and not visible from the river. Illuminated signs are prohibited. Signs may be not more than 2 square feet in area. Exceptions include 1 real estate sign not more than 4 square feet outside the native vegetation buffer, and public agencies' signs not larger than 10 square feet, of rustic design and not attached to vegetation. Some public agency signs may need to be larger to warn of impending danger or for interpretative or historic reasons.

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

(a) Docks shall not be more than 48 square feet in area, with not more than 4 feet of the dock extending over the edge of the river.

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

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

(9) Unless otherwise provided in these rules, a structure shall not be more than 2 1/2 stories tall, not including a basement, and not more than 35 feet in height measured from the original surface elevation.

(10) Private river access stairways are permitted upon approval of the zoning administrator if in compliance with all of the following requirements:

(a) There is no other safe, feasible access to the river without a stairway.

(b) The stairway is low-profile, not more than 4 feet wide and constructed without stairs being recessed into the ground surface unless site and soil conditions dictate that a recessed stairway is more appropriate.

(c) There are no landings associated with the stairway unless required by building codes, in which case the landings shall be of the minimum number and size required by building codes.

(d) Not more than 1 handrail is associated with the stairway.

(e) Only 1 river access stairway is permitted per parcel.

(f) The stairway is constructed using natural materials and is located and maintained to blend with the natural surroundings.

(11) Construction of new dams is prohibited. Reconstruction of a failed dam is permitted under any of the following conditions:

(a) Reconstruction of a dam destroyed by a catastrophic event such as flood may be reconstructed.

(b) Reconstruction of a dam that failed due to lack of maintenance or other negligence by the owner or operator is prohibited.

(c) Reconstruction of a dam that failed due to a catastrophic event shall comply with construction standards in effect at the time of application for replacement.

(d) Application for reconstruction shall be received within 1 year of destruction.

(e) A reconstructed dam shall be rebuilt with a height not greater than the original dam height.

(f) A bottom discharge and fish passage facilities shall be provided for a reconstructed dam where appropriate.

(g) A request for replacement of a dam destroyed by a catastrophic event shall be handled as a variance request for reconstruction of a destroyed, non-conforming structure.

(12) The maximum percentage of impervious surface permitted on a lot shall be as follows:

(a) For lots with less than 10,000 square feet of area, not more than 35% of the land surface may be covered by impervious surfaces.

(b) For lots with between 10,000 square feet and 40,000 square feet of area, not more than 25% of the land surface may be covered by impervious surfaces.

(c) For lots with between 40,001 square feet and 80,000 square feet of area, not more than 20% of the land surface may be covered by impervious surfaces.

(d) For lots greater than 80,000 square feet of area, not more than 10% of the land surface may be covered by impervious surfaces.

History: 2004 AACCS.

**R 281.175 Boundaries; interpretation of boundaries; filing of zoning map.**

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

(a) The Manistee river mainstream from its sources in Sections 1 and 12 of Mancelona Township, T29N, R5W to the Wexford/Missaukee county line.

(b) Frenchman's Creek from the Lake Elizabeth Dam in section 30 of Hayes Twp., T29N, R4W to its confluence with the Manistee River.

(c) Lost Lake Outlet from the outfall of Lost Lake in Section 6 of Frederic Township, T28N, R4W to its confluence with the Manistee River.

(d) An unnamed stream from its source in Section 13 of Blue Lake Township, T28N, R5W to its confluence with the Manistee River.

(e) Goose Creek from Cameron Bridge Road in section 27 of Blue Lake Twp., T28N, R5W to its confluence with the Manistee River.

(f) Portage Creek from the control structure near the outfall of Lake Margrethe, section 8 of Grayling Twp., T26N, R4W to its confluence with the Manistee River, including all braided channels.

(g) All perennial tributaries to Portage Creek from their sources to their confluence with Portage Creek.

(h) Clear Creek from its source at Boiling Springs in section 28 of Bear Lake Twp., T26N, R5W to its confluence with the Manistee River.

- (i) Black Creek from the outfall of South Black Lake in section 21 of Bear Lake Twp., T27N, R5W to its confluence with the Manistee River, including all braided channels.
- (j) All perennial tributaries to Black Creek from their sources to their confluence with Black Creek.
- (k) Dempsey Creek from its source in section 19 of Bear Lake Twp., T26N, R5W to its confluence with the Manistee River.
- (l) Big Devil Creek from its source in Section 18 of Garfield Township, T25N, R5W to its confluence with the Manistee River.
- (m) Big Cannon Creek from its source in section 5 of Norwich Twp., T24N, R5W to its confluence with the Manistee River.
- (n) The North Branch of the Manistee River from County Road 612 in section 3 of Excelsior Twp., T27N, R6W to its confluence with the Manistee River.
- (o) An unnamed stream from Tower Road in section 25 of Coldsprings Twp., T28N, R6W to its confluence with the North Branch of the Manistee River.
- (p) Morrison Creek from its source in section 28 of Excelsior Township, T27N, R6W to its confluence with the North Branch of the Manistee River.
- (q) Collar Creek from its source in section 33 of Excelsior Township, T27N, R6W to its confluence with Morrison Creek.
- (r) An unnamed stream from its sources in section 26 of Excelsior Township, T27N, R6W to its confluence with Morrison Creek.
- (s) All other perennial tributaries to the North Branch of the Manistee River from their sources to their confluence with the North Branch of the Manistee River.
- (t) Willow Creek from its source in section 14 of Orange Twp., T26N, R7W to its confluence with the Manistee River.
- (u) Pierson Creek from its source in section 12 of Orange Township, T26N, R7W to its confluence with Willow Creek.
- (v) Maple Creek from its source in section 22 of Orange Twp., T26N, R7W to its confluence with the Manistee River.
- (w) Little Cannon Creek from multiple sources in sections 29, 31 and 32 of Garfield Twp., T25N, R6W to its confluence with the Manistee River.
- (x) Silver Creek from its source in section 1 of Pioneer Twp., T24N, R7W to its confluence with Little Cannon Creek.
- (y) Waterhole Creek and all tributaries from their multiple sources in Garfield Township, T25N, R7W to the confluence with the Manistee River.
- (z) Babcock Creek from its sources in section 33 of Garfield Township, T25N, R 7W to its confluence with the Manistee River.
- (aa) Filer Creek from its source in Section 4 of Pioneer Township, T24N, R7W to its confluence with the Manistee River.
- (bb) Nelson Creek from its sources in Section 30 of Garfield Township, T25N, R7W to its confluence with the Manistee River.
- (cc) Spring Creek from its sources in section 22 of Springfield Twp., T25N, R8W to its confluence with the Manistee River.
- (dd) Bourne Creek from its sources in section 29 of Springfield Twp., T25N, R8W to its confluence with the Manistee River.

(ee) Ham Creek from its source in Section 24 of Bloomfield Twp., T24N, R8W to its confluence with the Manistee River, including two tributaries with sources in Sections 3 and 9.

(ff) Gravy Creek from its source in section 5 of Bloomfield Twp., T24N, R8W to its confluence with the Manistee River.

(gg) Haynes Creek from its source in section 31 of Springfield Twp., T25N, R8W to its confluence with the Manistee River.

(hh) Hopkins Creek from its source in Section 17 of Forest Twp., T23N, R7W to its confluence with the Manistee River.

(ii) Fisher Creek (a.k.a. "Hopkins Creek" on the USGS topographic map) from its source in section 31 of Springfield Twp., T25N, R8W to its confluence with the Manistee River.

(jj) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (ii) of this subrule.

(kk) The lands lying within 400 feet of the river's edge that are enumerated in subdivisions (a) to (jj) of this subrule.

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

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

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

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

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

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

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

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

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

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



- (a) The state tax commission.
- (b) Local tax assessing officers.
- (c) Township and county clerks.
- (d) County drain commissioners.
- (e) Local building department.
- (f) The natural rivers unit of the Michigan department of natural resources.

History: 2004 AACRS.

**R 281.176 Zoning permits; site plans; certificates of zoning compliance.**

Rule 6. (1) A building or other structure shall not be erected, moved, added to, or structurally altered, and a land use shall not be commenced, without a zoning permit as specified by these rules and as issued by the zoning administrator. Permits shall not be required for exempt activities as specified in R 281.177. Plans that are submitted when applying for a zoning permit shall contain the necessary information for determining compliance with these rules.

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

- (a) A site plan drawn to scale, with the scale indicated.
- (b) Property dimensions, including river frontage.
- (c) Size, shape, use, and location of existing and proposed buildings or improvements, including distances to adjacent property boundaries and the river's edge.
- (d) Existing vegetation, including the location and type.
- (e) Adjacent streets and highways.
- (f) Parking areas.
- (g) Cross section drawing showing height of buildings above water level and bluff heights.
- (h) Entrances to public streets.
- (i) A description of the building design, including proposed construction materials.
- (j) Drainage facilities.
- (k) The location and description of the method to dispose of sanitary wastes.
- (l) Proposed landscaping.
- (m) The location of footpaths.
- (n) Signs proposed, including the size, location, and material.
- (o) North arrow.
- (p) Date of drawing.
- (q) Detailed site location map.

(f) Any additional information required by the zoning administrator or zoning review board to carry out the administrator's or board's duties. Examples of such information include the following:

- (i) Soil types.
- (ii) Topography.
- (iii) Building elevations.
- (iv) Site photographs.
- (v) Anticipated traffic volumes.
- (vi) Traffic circulation patterns.
- (vii) Other pertinent site information.

(3) A building, structure, or lot for which a zoning permit has been issued shall not be occupied, and a use for which a zoning permit has been issued shall not commence, until the zoning administrator has, after final inspection, issued a certificate of zoning compliance that certifies compliance with these rules. However, the issuance of a certificate of compliance shall not be construed as waiving any provision of these rules. A building that is an accessory to a dwelling shall not require a separate certificate of zoning compliance, but may be included in the certificate of zoning compliance for the dwelling if shown on the site plan and if completed at the same time as the dwelling. A record of all certificates that are issued shall be kept on file in the office of the zoning administrator. Certificates of zoning compliance are for the purposes of these rules and shall not be interpreted as substitutes for certificates of occupancy that are required by local building codes or local zoning permits.

History: 2004 AACCS.

### **R 281.177 Land use and development standards.**

Rule 7. (1) Land uses within the natural river district are classified as exempt, principal, or special uses and are described as follows:

(a) Exempt uses are uses which are permitted by right and which are not subject to the receipt of a zoning permit. Exempt uses include all of the following:

(i) Private, noncommercial recreation which does not involve permanent structures, equipment, or other devices, but which includes camping, boating, fishing, hunting, and other similar activities.

(ii) Reforestation and other accepted forest management practices that do not involve permanent structures and that are landward of the native vegetation buffer.

(iii) Agricultural activities, such as plowing, disking and planting of crops, including general and specialized farming such as Christmas tree farms, provided that all new activities occur landward of the native vegetation buffer and provided such uses will not significantly contribute to stream degradation. Construction of any residential and farm-related structures and appurtenances are classified as principal uses (see subrule

(b) of this rule) and are subject to zoning permit requirements. New aquaculture facilities and concentrated animal feeding operations, and expansion of existing aquaculture facilities and concentrated animal feeding operations, are not permitted within the Natural River District without a land use variance. Resumption of prior

agricultural uses that were located within the native vegetation buffer but have been discontinued, such as crop fields that are rotated, may resume if 1 of the following criteria are met:

(A) The cessation of use was within 10 years of resumption of use.

(B) The cessation of use was due to implementation of a management plan written prior to adoption of these rules.

(C) The cessation of use was the result of written agreements with a governmental agency or agencies entered into prior to adoption of these rules.

(D) The cessation of use was the result of written agreements with a governmental agency or agencies entered into after adoption of these rules or ordinances implementing this plan, where the term of cessation of use specified in the agreement is for 10 years or less.

(E) The cessation of use was required or imposed by a governmental agency or agencies.

(iv) The operation of licensed motor vehicles on dedicated public roads or private roads that are designed to provide access to a permitted use.

(v) The off-road operation of emergency and public utility maintenance vehicles, and the operation of motorized or non-motorized wheelchairs by persons with disabilities on footpaths, boardwalks, or other designated trails. Other motorized vehicles may not be operated off the road in the native vegetation buffer as specified in R 281.174.

(vi) Cutting of low growing vegetation in the native vegetation buffer to create a private footpath of not more than 4 feet in width leading to a single point on the river's edge. A boardwalk or other above grade walkway is considered a structure and requires a zoning permit.

(vii) Signs, subject to the provisions of R 281.174.

(viii) A replacement residential water supply well, provided the replacement well is no closer to the river's edge than the well it is replacing and is landward of the native vegetation buffer, and the replaced well is properly abandoned.

(ix) Routine maintenance and repairs of principal uses within the existing foundation and structure, subject to the provisions of R 281.180.

(x) Satellite dishes that are less than 24 inches in diameter and that are not located in the native vegetation buffer.

(b) Principal uses are uses which are allowed by right, but which require the issuance of zoning permits by the zoning administrator. Principal uses include all of the following:

(i) Single-family dwellings, including detached long-term rental dwellings, if all of the following provisions are complied with:

(A) Only 1 dwelling per parcel unless 1 of the following occurs:

(1) The property owner develops a site plan for the parent parcel showing theoretical property lines for individual lots based on Natural River development standards, and locates any additional residences and appurtenances as if the property were divided into those separate lots.

(2) For each single-family dwelling placed in a cluster-type setting so that the requirements in subdivision (b)(i)(A)(1) are not met, a portion of the parent parcel containing square footage, width, depth and buildable area equal to a newly created separate legal parcel as described in R 281.174

shall be made subject to a permanent conservation easement or deed restriction that prohibits construction of any structures within that portion of the parcel, or the development rights to a portion of the parent parcel containing square footage, width, depth, and buildable area equal to a newly created separate legal lot or parcel as described in R 281.174 shall be sold, donated or otherwise conveyed in perpetuity to a land conservancy, local unit of government, or the state. The agency acquiring the development rights shall agree in writing to refrain from development of the land in perpetuity.

(B) Building setback for lots shall be not less than 100 feet from the ordinary high watermark on the mainstream and other designated tributaries, except as described in subdivision (b)(i)(C) of this rule. Structures shall be set back not less than 50 feet from the crest of a bluff on the mainstream and not less than 25 feet from the crest of a bluff on designated tributaries. No building shall take place on land that is subject to flooding or in any wetland area. The natural contour of the face and crest of the bluff shall not be altered. The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(C) Building setbacks in areas of concentrated development are as follows: If a vacant legal nonconforming parcel is between and adjacent to 2 parcels that contain legal single-family dwellings that do not meet the minimum building setbacks, and the adjacent legal non-conforming single-family dwellings are within 300 feet of each other, then the minimum building setback for a new single-family dwelling on the vacant parcel is the distance from the river of the adjacent single-family dwelling that is farthest from the river's edge or the minimum required width of the native vegetation buffer, whichever is greater, provided the single-family dwelling is not placed on lands that are subject to flooding or in any wetland area. All appurtenances and accessory buildings shall meet the minimum required building setback described in subdivision (b)(i)(B). All structures shall be set back not less than 50 feet from the crest of a bluff on the mainstream and not less than 25 feet from the crest of a bluff on designated tributaries. The natural contour of the face and crest of the bluff shall not be altered. The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(ii) Expansion of a legal nonconforming single-family dwelling subject to the provisions of R 281.180.

(iii) Accessory buildings and appurtenances that meet requirements of paragraph (i) of this subdivision.

(iv) One private boat dock per parcel, subject to R 281.174.

(v) One private river access stairway per parcel, subject to R 281.174.

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

(vii) Disposal fields, septic tanks, and outhouses if all of the following provisions are complied with:

(A) The septic tank and disposal field meet local health department standards.

(B) The disposal fields shall be located not less than 100 feet from the ordinary high watermark and any surface or subsurface drain that discharges into the Upper Manistee River or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the native vegetation buffer.

(C) The septic tank shall be no closer to the river than the dwelling it serves and shall not be located within the 100-year floodplain or a wetland area.

(D) The bottom of the disposal field shall be at least 4 feet above the seasonal high groundwater table.

(E) An outhouse shall be constructed using a watertight waste containment system which allows waste to be pumped and hauled to an appropriate disposal site, shall be located not less than 100 feet from the ordinary high watermark and any surface or subsurface drain that discharges into the Upper Manistee River or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the native vegetation buffer.

(F) Drywells and earth privies are not permitted unless they are authorized by the local health department, are a minimum of 100 feet from the ordinary high water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(G) An innovative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 75 feet from the river's edge, provided no part of the system is in a wetland or the 100-year floodplain.

(H) Disposal of sludge from any wastewater treatment system is prohibited in the Natural River District.

(viii) Water supply wells serving exempt, principal, or special uses if the well is landward of the native vegetation buffer described in R 281.174.

(ix) Mining and extracting industries, if all land disturbance, structures, and other activities related to the industry are located more than 300 feet from the ordinary high watermark.

(x) Land divisions, if the minimum standards specified in R 281.174 are met. A zoning permit, special use permit or variance will not be granted for any activity on a parcel that is created after the effective date of these rules if the new parcel does not meet all of the standards in R 281.174. No new parcel will be created that would require reaching the only buildable area by constructing a road/stream crossing.

(xi) Home occupations and home-based occupations, subject to the provisions of Rule 4.

(xii) Land alteration, such as grading, dredging, and filling of the land surface, except thin the native vegetation buffer, on the face or crest of a bluff, or in a wetland or floodplain as defined in R 281.171. Draining wetlands is prohibited. Ponds may be constructed if the pond is not constructed in a wetland or the 100-year floodplain, the pond meets the building setback established for the area, spoils are placed in a non-wetland, non-floodplain area landward of the native vegetation buffer, and the pond is not connected to the river by any surface or subsurface drainage system.

(xiii) Bridges, including any structure of any span length designed to provide a pedestrian or vehicle stream crossing, subject to the following standards:

(A) All existing bridges that are destroyed by any means, whether on a tributary or mainstream segment, may be replaced. On mainstream segments, destroyed pedestrian bridges may not be replaced with vehicle bridges. Destroyed bridges shall be replaced within 18 months of destruction or the replacement bridge shall be considered to be a new bridge and will be subject to new bridge standards.

(B) New bridges are not permitted on any parcel that is created after the effective date of these rules.

(C) New bridges of any type are prohibited on mainstream segments.

(D) All replacement bridges on mainstream segments shall span the bankfull channel, have a minimum clearance of 5 feet between the ordinary high water mark and "low steel" (the bottom of the bridge deck and/or deck supports other than abutments), and be a structure with a natural bottom, for example, pipe, box, or arch culverts are not permitted.

(E) New pedestrian bridges are permitted on all tributaries provided the lands connected by a new bridge were, at the time of adoption of these rules, and continue to be, collectively owned by a single person.

(F) New bridges linking properties in separate ownership shall not be permitted except in areas where construction of such a bridge to access a permitted building site will result in less resource damage than construction of another type of permitted access. The exception shall only apply to lots that were created before the effective date of these rules.

(G) Only 1 bridge is permitted to access a portion of land that is otherwise inaccessible from the owner's contiguous property.

(H) Permanent new bridges on tributaries shall span the bankfull channel and be a structure with a natural bottom, for example, pipe, box or arch culverts are not permitted, and, in the case of pedestrian bridges, be constructed such that use by any motorized vehicles, such as dirt bikes and ATVs, are excluded.

(I) Permanent bridges replacing bridges that have natural bottoms on tributaries shall span the bankfull channel and be a structure with a natural bottom, for example, pipe, box, or arch culverts, are not permitted, and in the case of pedestrian bridges, be constructed such that use by any motorized vehicles, such as dirt bikes and ATVs, are excluded.

(J) Permanent bridges replacing bridges without natural bottoms on tributaries shall span the bankfull channel, and, in the case of pedestrian bridges, be constructed such that use by any motorized vehicles, such as dirt bikes and ATVs, are excluded.

(K) Temporary vehicle bridges on tributaries for the purpose of access for timber harvest may be permitted provided they are constructed in a manner that minimizes disruption of the stream and are removed immediately after harvesting activities. Disturbed areas in the native vegetation buffer shall be re-vegetated, any fill placed shall be removed and the land shall be returned to its original grade as soon as possible after removal of the bridge. Proper erosion/sedimentation control methods shall be used during placement and use of the bridge.

(L) New permanent vehicle bridges on tributaries may be allowed upon receipt of a special use permit.

(xiv) Forest management activities within the native vegetation buffer, subject to the provisions of R 281.174.

(xv) Boardwalks that meet the setback requirements of subrule (2)(C) of this rule and boardwalks associated with a footpath to the river's edge subject to R 281.174(6).

(c) The Upper Manistee River natural river plan and these rules recognize that certain types of residential, recreational, and commercial uses may be appropriate for the

natural river district that have not been identified under the exempt and principal uses provisions of this rule. To ensure that such uses do not contravene the goals and objectives of the Upper Manistee River natural river plan and these rules, such uses shall be referred to as special uses and shall be subject to the review and approval of the zoning review board. Special uses and their development standards include all of the following:

(i) Detached rental cabins, if all of the following provisions are complied with:

(A) The number of cabins permitted shall be based on the rate of 1 cabin per 200 feet of frontage. Clustering of rental cabins is permitted and encouraged; however, there shall not be more than 1 cabin per 200 feet of river frontage. For each cabin placed in a cluster-type setting, a portion of the parent parcel containing square footage, width, depth and buildable area equal to a newly created separate legal parcel as described in R 281.174 shall be made subject to a permanent conservation easement or deed restriction that prohibits construction of any structures within that portion of the parcel, or the development rights to a portion of the parent parcel containing square footage, width, depth and buildable area equal to a newly created separate legal lot or parcel as described in R 281.174 will be sold, donated, or otherwise conveyed in perpetuity to a land conservancy, local unit of government, or the state. The agency acquiring the development rights shall agree in writing to refrain from development of the land in perpetuity.

(B) The size of each cabin shall not exceed 900 square feet and 1 story in height. The cabin shall not contain sleeping accommodations for more than 8 people.

(C) Each cabin shall be set back a minimum of 200 feet from the ordinary high watermark. All associated buildings and structures shall be located outside of the Natural River District.

(D) Temporary recreational facilities, including tents, camper trailers, and recreational vehicles shall be located outside of the Natural River District.

(E) Each cabin shall be a minimum of 75 feet from the property line of adjacent riverfront properties.

(F) Establishment of vegetative buffers along side or back lot lines may be required for rental cabins that are adjacent to existing residential uses. Buffers shall consist of plant material that is indigenous to the area in a strip at least 20 feet wide composed of deciduous trees interspersed with coniferous trees to be spaced not more than 10 feet apart. Deciduous trees

shall be a minimum of 8 feet in height and coniferous trees a minimum of 5 feet in height at the time of planting. The buffer shall also include dense shrubs placed not less than 5 feet apart having a minimum of 3 feet in height when planted. The entire buffer shall be maintained in at least as healthy a condition as when planted.

(G) Docks may be constructed for the private use of occupants of the rental cabins. Permanent and seasonal docks shall comply with the general standards for docks and all of the following provisions:

(1) Docks shall be not larger than 48 square feet, with not more than 4 feet of the dock extending into the water.

(2) Docks may be constructed at the rate of 1 dock per 1000 feet of frontage. If the property in question contains less than 1000 feet of frontage, 1 dock will be permitted.

(3) Docks shall be constructed of natural materials that blend with the natural surroundings.

(4) Access to a dock or docks shall be along a single designated footpath not more than 4 feet wide to minimize disruption of the native vegetation buffer.

(5) Any steps or stairs necessary on the streambank to access the dock shall be constructed without cutting into the ground surface, unless site and soil conditions indicate that a recessed stairway will better meet the goals and objectives of designation.

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

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

(B) Commercial buildings associated with the campground are prohibited in the Natural River District.

(C) All permanent structures shall be at least 200 feet from the river's edge.

(D) Campsites are permitted at a density of not more than 4 sites per acre of land that is located in the Natural River District and landward of the native vegetation buffer.

(E) A 100 foot-wide native vegetation buffer along the river shall be maintained.

(F) Campsites that accommodate wheeled motor vehicles shall be at least 200 feet from the river's edge.

(G) Walk-in campsites shall be landward of the native vegetation buffer.

(H) Docks may be constructed at the rate of 1 dock not larger than 48 square feet for each 200 feet of river frontage, accessed by a single footpath not more than 4 feet wide.

(I) No motorized vehicle access to the river is permitted.

(J) Launching or retrieval of commercial watercraft, other than by registered campers on-site, is prohibited at any newly developed campground.

(iii) Permanent vehicle bridges on tributaries subject to the provisions of R 281.177.

History: 2004 AACCS.

### **R 281.178 Application and approval; procedures and standards; principal uses and special uses.**

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

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

(i) A completed application form that is signed by the applicant or the applicant's representative.

(ii) A site plan that meets the requirements of R 281.176.

(iii) Evidence of ownership or a legal interest in the property that is affected by the application for a principal use.

(b) Within 21 days of receipt of an application for a principal use, the zoning administrator shall notify the applicant of the need for additional information.



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

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

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

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

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

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

(i) A completed application form that is signed by the applicant or the applicant's representative.

(ii) Eight copies of a site plan that meets the requirements of R 281.176.

(iii) Evidence of ownership or a legal interest in the property that is affected by the application for a special use.

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

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

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

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

(ii) Notice shall be sent by first-class mail or personal delivery to the owners of property for which approval is being considered and to all persons who are identified in 2(a)(iv) of this subrule.

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

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

(B) Local tax assessing officials.

(C) Township and county clerks.

(D) Local building inspectors.

(E) State, district, or county health department, when applicable.

(d) In considering a special use application, the zoning review board shall require that all of the following general standards, in addition to those specific standards established for each special use in R 281.177 be satisfied:

(i) That the purposes specified in R 281.172 are accomplished.

(ii) That a compelling reason exists to locate the proposed use within the district boundaries if contiguous property under the same ownership is available outside the district.

(iii) That the proposed use in combination with other existing uses will not be a detriment to the public health, safety, and welfare.

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

(f) The concurring vote of at least 4 of the 7 voting members of the zoning review board shall be required to approve a special use.

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

(h) If the zoning review board determines that the applicant has failed to comply with any of the requirements of these rules or the approved special use permit, then the board, after a public hearing held in accordance with the provisions of subrule (c) of this rule may revoke any special use approval.

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

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

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

History: 2004 AACCS.

### **R 281.179 Variances and variance hearings.**

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

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

(a) How substantial the variance is in relation to the zoning requirements.

(b) Whether a substantial change will be effected in the character of the area or a substantial detriment created for adjoining properties.

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

(d) Whether, in view of the manner in which the difficulty arose, the interests of justice shall be served by allowing the variance.

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

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

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

request. Minor variances are defined as reductions in setbacks for uses on any lawful lot that are not more than 25% of the normal dimensional requirements. Such uses shall include principal or accessory buildings or structures, including decks, porches, and steps.

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

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

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

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

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

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

(5) In determining whether reasonable use may be made of the property as zoned, a reasonable economic return may be a factor that could be considered, but only if the applicant is in compliance with the provisions of subrules

(1) to (4) of this rule. Whether any weight shall be given to the economic return factor shall be dependent on a determination that the owner has been deprived of all beneficial use of his or her property under existing zoning.

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

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

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

(c) The use will be adequately served by existing essential public facilities and services, such as highways, police and fire protection, drainage structures, refuse disposal, and sanitation facilities, or the persons or agencies that are responsible for the establishment of the proposed use may adequately provide essential services.

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

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

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

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

(7) Upon receipt of an application for a variance, the zoning review board shall conduct a hearing on the request, except as provided in subrule (3) of this rule. The hearing and notice procedure shall follow the procedure established for special use applications by the provisions of R 281.178. A decision shall be made within 30 days after the final hearing to approve or deny the variance request. The zoning review board shall keep complete and detailed records of all its proceedings, which shall include the minutes of its meetings, its findings, and actions taken on each matter heard by it, including the final order. Reasons for the decision shall be in writing. The board shall record the vote of each member on each question. If a member is absent or fails to vote, the board shall indicate such fact. All records shall be open for public inspection. The concurring vote of at least 4 of the 7 voting members of the zoning review board shall be necessary to effect a dimensional variance in these rules. The concurring vote of at least 5 of the 7 voting members of the zoning review board is required to grant a land use variance in these rules. If the required concurring vote for approval of a variance is not achieved, then the variance is considered to be denied.

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

(9) The effect of any variance shall be to create a nonconforming land use, lot, or structure that is then subject to R 281.180, which regulates continued use.

(10) The zoning review board or the zoning administrator may impose conditions on an applicant before granting a variance. Such conditions shall be in writing. The zoning permit issued for the project for which the variance was approved is not valid until the applicant accepts the conditions in writing.

(11) An application for a variance that has been denied by the zoning review board or zoning administrator shall not be submitted for reconsideration unless, in the opinion of the zoning administrator, the application is significantly different in scope

from the application that was denied or new and significant facts, and conditions exist which might result in favorable action upon resubmission.

History: 2004 AACCS.

**R 281.180 Pine river system boundaries.**

Rule 130. The boundaries of the Pine river natural river district shall be as described in these rules and as depicted on the certified Pine river natural river zoning map with an effective date of December 27, 2004. The Pine river natural river zoning district comprises an area that is described as follows:

(a) The Pine river mainstream, from the confluence of the North Branch Pine river and the East Branch Pine river in section 29, T20N, R10W to M-55.

(b) The north branch Pine river from its easternmost crossing of the north line of section 20, T21N, R9W to its confluence with the east branch Pine river. Lands adjacent to the north branch Pine river from its confluence with Spalding creek to its confluence with the east branch are subject to mainstream development standards in R 281.88.

(c) Spalding creek from 46 road in section 16, T21N, R10W to its confluence with the north branch Pine river.

(d) Fairchild creek from its source in section 13, T21N, R11W to its confluence with the north branch Pine river.

(e) Sixteen creek from its source in section 2, T20N, R10W to its confluence with the north branch Pine river.

(f) An unnamed stream from the outfall of a dam in section 8, T20N, R10W to its confluence with the Pine river.

(g) The east branch Pine river from the outfall of a lake in section 1, T20N, R10W to its confluence with the north branch Pine river.

(h) The Rose lake outlet from its sources at the outfall of Rose lake in section 3, T19N, R9W and the outfall of Emery lake in section 34, T20N, R9W, to its confluence with the east branch Pine river.

(i) Edgett creek from 190<sup>th</sup> road in section 36, T20N, R10W to its confluence with the Rose lake outlet including both branches of the Diamond lake outlet from their sources in section 26, T20N, R10W to the confluence with Edgett creek.

(j) An unnamed stream from its source in section 20, T20N, R9W to its confluence with the Rose lake outlet.

(k) Sprague creek from the outfall of a pond in the center of section 33, T20N, R10W to its confluence with the Pine river.

(l) Beaver creek from the north/south centerline of section 11, T19N, R10W to its confluence with the Pine river.

(m) Little Beaver creek from the outlet of a large pond in the northeast 1/4 of section 19, T19N, R10W to its confluence with Beaver creek.

(n) An unnamed stream from the outfall of the southernmost of two ponds in section 14, T19N, R11W to its confluence with the Pine river.

(o) Coe creek from the outfall of Lake Olga in section 1, T20N, R11W to its confluence with the Pine river.

(p) Dyer creek from the outfall of a small pond in section 13, T20N, R11W to its confluence with Coe creek.

- (q) Sellars creek from its source in section 21, T20N, R11W to its confluence with the Pine river.
- (r) An unnamed stream from its source in section 20, T20N, R11W to its confluence with the Pine river.
- (s) An unnamed stream from its source in section 19, T20N, R11W to its confluence with the Pine river.
- (t) An unnamed stream from its source in section 24, T20N, R12W to its confluence with the Pine river.
- (u) Silver creek from its source in section 15, T20N, R11W to its confluence with the Pine river, including all perennial tributaries from their sources to their confluence with Silver creek.
- (v) An unnamed stream from its source in section 13, T20N, R12W to its confluence with the Pine river.
- (w) An unnamed stream from its source in section 11, T20N, R12W to its confluence with the Pine river.
- (x) An unnamed stream from its source in section 7, T20N, R11W to its confluence with the Pine river.
- (y) An unnamed stream from the west line of section 6, T20N, R11W to its confluence with the Pine river.
- (z) Poplar creek from its source in section 26, T21N, R11W to its confluence with the Pine river.
- (aa) Dowling creek from its 2 sources in sections 21 and 28, T21N, R11W to its confluence with Poplar creek.
- (bb) Hoxey creek from its source in section 25, T21N, R12W to its confluence with the Pine river.
- (cc) An unnamed creek from its sources in section 27 and 34, T21N, R12W to its confluence with the Pine river.
- (dd) Yates creek from its source in section 22, T21N, R12W to its confluence with the Pine river.
- (ee) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams, or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (dd) of this rule.
- (ff) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (dd) of this rule.

History: 2004 AACCS; 2013 AACCS.

**R 281.181 Pine river system principal uses; natural vegetation strip; vegetative cutting within river channel.**

Rule 131. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

- (a) A single-family dwelling or short-term rental facility with all the following provisions:
  - (i) The minimum building setback not less than 150 feet from the ordinary high-water mark on the mainstream and the north branch Pine river from its confluence with Spalding creek to its confluence with the east branch Pine river and not less than 100 feet

from the ordinary high-water mark on all other designated tributaries, except as described in R 281.57.

(ii) On the mainstream and the north branch Pine river from its confluence with Spalding creek to its confluence with the east branch Pine river the setback may be decreased 1 foot for every 1-foot rise in bank height to a minimum distance of 100 feet from the ordinary high-water mark. The reduction in setback does not apply until the bank height reaches 25 feet, at which point the reduction in setback is 25 feet.

(iii) On all other tributaries, the setback may be decreased 1 foot for every 1-foot rise in bank height to a minimum distance of 75 feet from the ordinary high-water mark. The reduction in setback does not apply until the bank height reaches 15 feet, at which point the reduction in setback is 15 feet.

(iv) A dwelling shall be set back not less than 50 feet from the crest of a bluff on the mainstream and the north branch Pine river from its confluence with Spalding creek to its confluence with the east branch Pine river, and not less than 25 feet from the crest of a bluff on all other designated tributaries.

(v) Building shall not take place on land that is subject to flooding or in any wetland area.

(vi) The natural contour of the face and crest of the bluff shall not be altered.

(vii) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field located not less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Pine river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and not located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, shall be located not less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Pine river or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries, except the north branch of the Pine river from the confluence with

Spalding creek to the confluence with the east branch of the Pine river, provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after December 27, 2004, with all the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) Has at least 200 feet of river frontage, unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and at least 200 feet wide at the minimum building setback line.

(iii) Contains at least 1/2 acre of existing contiguous upland buildable area (non-wetland, non-floodplain) landward of the minimum building setback line.

(iv) Contains at least 80,000 square feet of area within the natural river district. Any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage, and the front line of the parcel is greater than 150 feet from the river's edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(v) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to the standards in this rule.

(vi) A lot that exists on December 27, 2004, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after December 27, 2004, shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to R 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river's edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the Pine river natural river district, a natural vegetation strip that includes the river and all lands within 100 feet of the ordinary high-water mark shall be maintained on each side of the Pine river mainstream and the north branch Pine river from its confluence with Spalding creek to its confluence with the east branch Pine river. A restrictive cutting belt that includes the river and all lands within 50 feet of the ordinary high-water mark shall be maintained on each side of all designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

(3) In the Pine river system upstream of the confluence of the north branch Pine river and the east branch Pine river and on all tributaries, vegetation in the stream channel shall not be disturbed except to alleviate flooding that threatens a dwelling. In the Pine river mainstream downstream of the confluence of the north branch Pine river and the east



branch Pine river vegetation may be selectively pruned to allow for safe navigation and to alleviate flooding that threatens a dwelling. This may include pruning of a maximum 8-foot wide section of vegetation. Portions of trees, logs, and other natural material imbedded in the stream channel shall not be disturbed.

History: 2004 AACCS; 2013 AACCS.

**R 281.182 Appeals; contested cases.**

Rule 12. An aggrieved party who contests the decision of the zoning administrator or zoning review board shall be granted a hearing if a petition is filed with the director within 60 days after notice of disapproval is received. The hearing shall be conducted pursuant to the provisions for contested cases of 1969 PA 306, MCL 24.201, and R 299.3071 to R 299.3081.

History: 2004 AACCS.

**R 281.183 Violations; effect; remedies.**

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

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

History: 2004 AACCS.

**R 281.184 Boundaries and permitted uses; changes, amendments, and supplements; precedence of local zoning ordinance over rules.**

Rule 14. (1) The director may make changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner following a hearing held pursuant to the provisions of sections 71 to 87 of 1969 PA 306, MCL 24.271 to 24.287, if implementation of the change, amendment, or supplement does not contravene the purposes of these rules as specified in R 281.182.

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

- (a) The county register of deeds.
- (b) Township and county clerks.

- (c) The local building inspector.
- (d) Local soil erosion and sedimentation control enforcement agencies.
- (e) The conservation district.
- (f) County drain commissioner.
- (g) Zoning review board members.

(3) A local zoning ordinance that meets all of the requirements of Natural Rivers Part 305 of 1994 PA 451, and either 1943 PA 184, MCL, 1943 PA 183, MCL, whichever is applicable, shall take precedence over these rules. If a local zoning ordinance does not meet all of the requirements of Natural Rivers Part 305 of 1994 PA 451, or if the local ordinance becomes inapplicable to the land area encompassed by the Upper Manistee River natural river district through court action or for any other reason, these rules shall apply. A local unit of government may, at any time, request the assistance of the department of natural resources in developing an ordinance that meets the requirements of Natural Rivers Part 305 of 1994 PA 451. The director shall determine if a local ordinance meets all of the requirements of Natural Rivers Part 305 of 1994 PA 451, and shall notify the local unit of government of his or her decision in writing. If the director withdraws his or her approval of a local zoning ordinance, these rules shall apply.

History: 2004 AACCS.

**R 281.190 Upper Manistee river system boundaries.**

Rule 140. The boundaries of the Upper Manistee river natural river district shall be as described in these rules and as depicted on the certified Upper Manistee river natural river zoning map with an effective date of December 27, 2004. The Upper Manistee river natural river zoning district comprises an area that is described as follows:

- (a) The Manistee river mainstream from its sources in sections 1 and 12, T29N, R5W to the Wexford/Missaukee county line.
- (b) Frenchman's creek from the Lake Elizabeth dam in section 30, T29N, R4W to its confluence with the Manistee river.
- (c) Lost Lake outlet from the outfall of Lost lake in section 6, T28N, R4W to its confluence with the Manistee river.
- (d) An unnamed stream from its source in section 13, T28N, R5W to its confluence with the Manistee river.
- (e) Goose creek from Cameron bridge road to its confluence with the Manistee river.
- (f) Portage creek from the control structure near the outfall of Lake Margrethe, section 8, T26N, R4W to its confluence with the Manistee river, including all braided channels.
- (g) All perennial tributaries to Portage creek from their sources to their confluence with Portage creek.
- (h) Clear creek from its source at Boiling springs in section 28, T26N, R5W to its confluence with the Manistee river.
- (i) Black creek from the outfall of south Black lake in section 21, T27N, R5W to its confluence with the Manistee river, including all braided channels.
- (j) All perennial tributaries to Black creek from their sources to their confluence with Black creek.

- (k) Dempsey creek from its source in section 19, T26N, R5W to its confluence with the Manistee river.
- (l) Big Devil creek from its source in section 18, T25N, R5W to its confluence with the Manistee river.
- (m) Big Cannon creek from its source in section 5, T24N, R5W to its confluence with the Manistee river.
- (n) The north branch Manistee river from county road 612 in section 3, T27N, R6W to its confluence with the Manistee river.
- (o) An unnamed stream from Tower road in section 25, T28N, R6W to its confluence with the north branch Manistee river.
- (p) Morrison creek from its source in section 28, T27N, R6W to its confluence with the north branch Manistee river.
- (q) Collar creek from its source in section 33, T27N, R6W to its confluence with Morrison creek.
- (r) Flowing Well creek from its sources in section 26, T27N, R6W to its confluence with Morrison creek.
- (s) All other perennial tributaries to the north branch Manistee river from their sources to their confluence with the north branch Manistee river.
- (t) Willow creek from its source in section 14, T26N, R7W to its confluence with the Manistee river.
- (u) Pierson creek from its source in section 12, T26N, R7W to its confluence with Willow creek.
- (v) Maple creek from its source in section 22, T26N, R7W to its confluence with the Manistee river.
- (w) Little Cannon creek from multiple sources in sections 29, 31 and 32, T25N, R6W to its confluence with the Manistee river.
- (x) Silver creek from its source in section 1, T24N, R7W to its confluence with Little Cannon creek.
- (y) Waterhole creek and all tributaries from their multiple sources in T25N, R7W to the confluence with the Manistee river.
- (z) Babcock creek from its sources in section 33, T25N, R7W to its confluence with the Manistee river.
- (aa) Filer creek from its source in section 4, T24N, R7W to its confluence with the Manistee river.
- (bb) Nelson creek from its sources in section 30, T25N, R7W to its confluence with the Manistee river.
- (cc) Spring creek from its sources in section 22, T25N, R8W to its confluence with the Manistee river.
- (dd) Bourne creek from its sources in section 29, T25N, R8W to its confluence with the Manistee River.
- (ee) Ham creek from its source in section 24, T24N, R8W to its confluence with the Manistee river, including two tributaries with sources in sections 3 and 9.
- (ff) Gravy creek from its source in section 5, T24N, R8W to its confluence with the Manistee river.
- (gg) Haynes creek from its source in section 31, T25N, R8W to its confluence with the Manistee river.

(hh) Hopkins creek from its source in section 17, T23N, R7W to its confluence with the Manistee river.

(ii) Fisher creek (also known as Hopkins creek on the United States Geological Survey topographic map) from its source in section 31, T25N, R8W to its confluence with the Manistee river.

(jj) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams, or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (ii) of this rule.

(kk) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (jj) of this rule.

History: 2013 AACCS.

**R 281.191 Upper Manistee river system principal uses; natural vegetation strip; vegetative cutting within river channel.**

Rule 141 (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with all the following provisions:

(i) The minimum building setback shall be not less than 100 feet from the ordinary high-water mark on the mainstream and other designated tributaries, except as described in R 281.57.

(ii) A dwelling shall be set back not less than 50 feet from the crest of a bluff on the mainstream and not less than 25 feet from the crest of a bluff on designated tributaries.

(iii) Building shall not take place on land that is subject to flooding or in any wetland area.

(iv) The natural contour of the face and crest of the bluff shall not be altered.

(v) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to the provisions of R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field located not less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Upper Manistee river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and not located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, located not less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that

discharges into the Upper Manistee river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 75 feet from the river's edge on designated tributaries, provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after December 27, 2004, with the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) Has at least 200 feet of river frontage, unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and at least 200 feet wide at the minimum building setback line.

(iii) Contains at least one-half acre of existing contiguous upland buildable area (non-wetland, non-floodplain) landward of the minimum building setback line.

(iv) Contains at least 80,000 square feet of area within the natural river district. Any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage, and the front line of the parcel is greater than 150 feet from the river's edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(v) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to the standards in this rule.

(vi) A lot that exists on December 27, 2004, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after December 27, 2004, shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to Rule 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river's edge, subject to R 281.58.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the Upper Manistee river natural river district, a natural vegetation strip that includes the river and all lands within 75 feet of the ordinary high-water mark on each

side of the Upper Manistee river mainstream and all designated tributaries. Cutting in the natural vegetation strip is subject to the provisions of R 281.57.

(3) On all designated tributaries, vegetation in the stream channel may not be disturbed except to alleviate flooding that threatens a dwelling. In the Upper Manistee river mainstream vegetation may be selectively pruned to allow for safe navigation and to alleviate flooding that threatens a dwelling. This may include pruning of a maximum 8-foot wide section of vegetation. Portions of trees, logs, and other natural material imbedded in the stream channel shall not be disturbed.

History: 2013 AACS.

### **R 281.200 Two Hearted river system boundaries.**

Rule 150. The boundaries of the Two Hearted river natural river district shall be as described in these rules and as depicted on the certified Two Hearted river natural river zoning map with the effective date of these rules. The Two Hearted river natural river zoning district comprises an area which is described as follows:

(a) The Two Hearted river from the confluence of the West Branch Two Hearted river and the north branch Two Hearted river in section 1, T48N, R11W to its mouth at Lake Superior.

(b) The north branch Two Hearted river from its source in section 20, T48N, R12W, to its confluence with the west branch Two Hearted river.

(c) Unnamed stream from its source in section 9, T48N, R12W, to its confluence with the north branch Two Hearted river.

(d) The west branch Two Hearted river from its source, including the west branch lakes, in sections 9 and 10, T48N, R12W, to its confluence with the north branch Two Hearted river.

(e) South branch Two Hearted river from its source, including Whorl pond, in section 4, T47N, R11W, to its confluence with the west branch Two Hearted river.

(f) Dawson creek from its source in section 25, T48N, R11W, to its confluence with the Two Hearted river.

(g) East branch Two Hearted river from its source in section 27, T48N, R10W, to its confluence with the Two Hearted river.

(h) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (g) of this rule.

(i) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (h) of this rule.

History: 2013 AACS.

### **R 281.201 Two Hearted river system principal uses; natural vegetation strip.**

Rule 151. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with all the following provisions:

(i) The minimum building setback shall be not less than 100 feet from the crest of an eroding river bank, not less than 75 feet from the crest of a non-eroding river bank that is greater than 20 feet above normal water levels, and not less than 100 feet from the crest of a non-eroding river bank that is less than 20 feet above normal water levels, except as described in R 281.57.

(ii) Building shall not take place on land that is subject to flooding or in any wetland area.

(iii) The natural contour of the face and crest of the river bank shall not be altered.

(iv) The land between the crest of the river bank and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field located in conformance with the building setbacks outlined in subdivision (a) of this subrule and shall be not less than 100 feet from any surface or subsurface drain that discharges into the Two Hearted river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.

(iv) An outhouse shall be constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, shall be located not less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Two Hearted river or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after the effective date of these rules, with all the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) Has at least 330 feet of river frontage (unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river) and is at least 330 feet wide at the minimum building setback line.

(iii) Contains at least 10 acres of area. Any “common area” created or any bottomlands shall not be used in any calculations related to minimum parcel area.

(iv) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.

(v) A lot that exists on the effective date of these rules shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Lots that are created after the effective date of these rules shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to R 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river’s edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the Two Hearted river natural river district, a natural vegetation strip that includes the river and all lands within 100 feet of the ordinary high-water mark shall be maintained on each side of the Two Hearted river mainstream and all designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

History: 1981 AACS; 2013 AACS.

#### **R 281.202 Rescinded.**

History: 1981 AACS; 2013 AACS.

#### **R 281.203 Rescinded.**

History: 1981 AACS; 2013 AACS.

#### **R 281.204 Rescinded.**

History: 1981 AACS; 2013 AACS.

#### **R 281.205 Rescinded.**

History: 1981 AACS; 2013 AACS.

#### **R 281.206 Rescinded.**

History: 1981 AACS; 2013 AACS.



**R 281.207 Rescinded.**

History: 1981 AACCS; 2013 AACCS.

**R 281.208 Rescinded.**

History: 1981 AACCS; 2013 AACCS.

**R 281.209 Rescinded.**

History: 1981 AACCS; 2013 AACCS.

**R 281.210 Lower Kalamazoo river system boundaries.**

Rule 160. The boundaries of the lower Kalamazoo river natural river district shall be as described in these rules and as depicted on the certified lower Kalamazoo river natural river zoning map with the effective date of these rules. The lower Kalamazoo river natural river zoning district comprises an area which is described as follows:

(a) The mainstream of the lower Kalamazoo river from Calkins bridge dam at Lake Allegan in section 15, T2N, R14W to the east line of section 22, T3N, R16W including all channels of the mainstream (approximately 22 miles).

(b) Rabbit river from 36th street in section 30, T4N, R13W to its confluence with the Kalamazoo river.

(c) Bear creek from 36th street in section 19, T3N, R13W to its confluence with the Kalamazoo river.

(d) Sand creek from the M-89 bridge in section 3, T2N, R14W to its confluence the Kalamazoo river.

(e) Swan creek from 112th avenue in section 5 T1N, R14W to its confluence with the Kalamazoo river.

(f) Mann creek from 128th avenue in section 28, T3N, R15W to its confluence with the Kalamazoo river.

(g) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (f) of this rule.

(h) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (g) of this rule.

History: 1981 AACCS; 2013 AACCS.

**R 281.211 Lower Kalamazoo river system principal uses; natural vegetation strip.**

Rule 161. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with all the following provisions:

(i) The minimum building setback shall be not less than 200 feet from the ordinary high-water mark on the mainstream and other designated tributaries, except as described in R 281.57. The setback may be decreased 3 feet for every 1 foot of rise in bank height to a minimum of 75 feet from the ordinary high-water mark.

(ii) A dwelling shall be set back not less than 50 feet from the crest of a bluff on the cutting edge of a stream and not less than 25 feet from the crest of a bluff on the noncutting edge of a stream.

(iii) Building shall not take place on land that is subject to flooding or in any wetland area.

(iv) The natural contour of the face and crest of the bluff shall not be altered.

(v) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field shall be located not less than 200 feet from the ordinary high-water mark and shall be not less than 50 feet from any surface or subsurface drain that discharges into the Lower Kalamazoo river or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and not located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, not located less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Lower Kalamazoo river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries.

(vi) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high-groundwater table.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after the effective date of these rules, with all the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) Has at least 150 feet of river frontage (unless a riverfront “common area” subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river) and is at least 150 feet wide at the minimum building setback line.

(iii) Contains at least 50,000 square feet of area in the natural river district. Any “common area” created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage, and the front line of the parcel is greater than 150 feet from the river’s edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(iv) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.

(v) A lot that exists on the effective date of these rules shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Lots that are created after the effective date of these rules shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to Rule 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river’s edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the lower Kalamazoo river natural river district, a natural vegetation strip that includes the river and all lands within 50 feet of the ordinary high-water mark shall be maintained on each side of the lower Kalamazoo river mainstream and all designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

History: 1981 AACS; 2013 AACS.

### **R 281.212 Rescinded.**

History: 1981 AACS; 2013 AACS.

### **R 281.213 Rescinded.**

History: 1981 AACS; 2013 AACS.

### **R 281.214 Rescinded.**

History: 1981 AACS; 2013 AACS.

**R 281.220 Fox river system boundaries.**

Rule 170. The boundaries of the Fox river natural river district shall be as described in these rules and as depicted on the certified Fox river natural river zoning map with the effective date of these rules. The Fox river natural river zoning district comprises an area described as follows:

(a) All channels of the Fox river mainstream from its source above Casey lake in section 21, T48N, R14W to the confluence with the Lake Branch of the Manistique river in section 25, T45N, R13W.

(b) Casey creek from its source in section 20, T48N, R14W, to its confluence with the Fox river.

(c) West branch from the confluence of Pelican creek in section 26, T48N, R15W, section 26) to its confluence with the Fox river.

(d) Spring ponds (2), 1 mile below the west branch of the Fox river in section 16, T47N, R14W.

(e) Little Fox from the outlet of Stanley lake in section 11 T47N, R15W to its confluence with the Fox river.

(f) Hudson creek from its sources in sections 2 and 11, T46N, R14W to its confluence with the Fox river (all channels).

(g) East Branch from its source above the reservoir in section 1, T47N, R14W to its confluence with the mainstream.(all channels)

(h) Clear creek from its sources in sections 15 and 22, T47N, R13W to its confluence with the east branch Fox river.

(i) Camp Seven creek from its source in section 30, T47N, R13W to its confluence with the east branch Fox river.

(j) Cold creek from its sources in sections 3 and 10, T46N, R13W to its confluence with the east branch (all channels) Fox river.

(k) Spring creek from its source at Spring creek pond in section 7, T46N, R12W to its confluence with Cold creek.

(l) Deer creek from its sources in sections 17 and 18, T46N, R12W and in section 13, T46N, R13W to its confluence with the east branch (all channels) Fox river.

(m) Bev creek from its source in section 21, T46N, R12W to its confluence with the east branch Fox river.

(n) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (m) of this rule.

(o) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (n) of this rule.

History: 2013 AACCS.

**R 281.221 Fox river system principal uses; natural vegetation strip.**

Rule 171. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with all the following provisions:

(i) The minimum building setback shall be not less than 100 feet from the ordinary high-water mark on the mainstream and other designated tributaries, except as described in R 281.57.

(ii) A dwelling shall be set back not less than 50 feet from the crest of a bluff.

(iii) Building shall not take place on land that is subject to flooding or in any wetland area.

(iv) The natural contour of the face and crest of the bluff shall not be altered.

(v) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field located not less than 150 feet from the ordinary high-water mark and not less than 50 feet from any surface or subsurface drain that discharges into the Fox river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.

(iv) An outhouse shall be constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, shall be located not less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Fox river or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after the effective date of these rules, with all the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) Has at least 330 feet of river frontage (unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river) and is at least 330 feet wide at the minimum building setback line.

(iii) Contains at least 5 acres of area. Any “common area” created or any bottomlands shall not be used in any calculations related to minimum parcel area.

(iv) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.

(v) A lot that exists on the effective date of these rules shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Lots that are created after the effective date of these rules shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to R 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river’s edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the Fox river natural river district, a natural vegetation strip that includes the river and all lands within 100 feet of the ordinary high-water mark shall be maintained on each side of the Fox river mainstream and all designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

History: 1985 AACCS; 2013 AACCS.

**R 281.222 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.223 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.224 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.225 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.226 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.227 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.228 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.229 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.230 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.231 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.232 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.233 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.234 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.251 Rescinded.**

History: 1981 AACCS; 2013 AACCS.

**R 281.252 Rescinded.**

History: 1981 AACCS; 2013 AACCS.

**R 281.253 Rescinded.**

History: 1981 AACCS; 2013 AACCS.

**R 281.254 Rescinded.**

History: 1981 AACCS; 2013 AACCS.

**R 281.255 Rescinded.**

History: 1981 AACCS; 2013 AACCS.

**R 281.256 Rescinded.**

History: 1981 AACCS; 2013 AACCS.

**R 281.257 Rescinded.**

History: 1981 AACCS; 2013 AACCS.

**R 281.258 Rescinded.**

History: 1981 AACCS; 2013 AACCS.

**R 281.259 Rescinded.**

History: 1981 AACCS; 2013 AACCS.

**R 281.260 Rescinded.**

History: 1981 AACCS; 2013 AACCS.

**R 281.261 Rescinded.**

History: 1981 AACCS; 2013 AACCS.



**R 281.262 Rescinded.**

History: 1981 AACCS; 2013 AACCS.

**R 281.263 Rescinded.**

History: 1981 AACCS; 2013 AACCS.

**R 281.264 Rescinded.**

History: 1981 AACCS; 2013 AACCS.

**R 281.271 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.272 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.273 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.274 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.275 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.276 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.277 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.278 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.279 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.280 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.281 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.282 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.283 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.284 Rescinded.**

History: 1985 AACCS; 2013 AACCS.

**R 281.321 Rescinded.**

History: 1990 AACCS; 2013 AACCS.

**R 281.322 Rescinded.**

History: 1990 AACCS; 2013 AACCS.

**R 281.323 Rescinded.**

History: 1990 AACCS; 2013 AACCS.

**R 281.324 Rescinded.**

History: 1990 AACCS; 2013 AACCS.

**R 281.325 Rescinded.**

History: 1990 AACCS; 2013 AACCS.

**R 281.326 Rescinded.**

History: 1990 AACCS; 2013 AACCS.

**R 281.327 Rescinded.**

History: 1990 AACCS; 2013 AACCS.

**R 281.328 Rescinded.**

History: 1990 AACCS; 2013 AACCS.

**R 281.329 Rescinded.**

History: 1990 AACCS; 2013 AACCS.

**R 281.330 Rescinded.**

History: 1990 AACCS; 2013 AACCS.

**R 281.331 Rescinded.**

History: 1990 AACCS; 2013 AACCS.

**R 281.332 Rescinded.**

History: 1990 AACCS; 2013 AACCS.

**R 281.333 Rescinded.**

History: 1990 AACCS; 2013 AACCS.

**R 281.334 Rescinded.**

History: 1990 AACCS; 2013 AACCS.

**R 281.341 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.342 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.343 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.344 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.345 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.346 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.347 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.348 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.349 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.350 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.351 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.352 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.353 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.354 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.355 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.361 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.362 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.363 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.364 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.365 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.366 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.367 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.368 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.369 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.370 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.371 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.372 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.373 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.374 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.375 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.381 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.382 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.383 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.384 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.385 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.386 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.387 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.388 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.389 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.390 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.391 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.392 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.393 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.394 Rescinded.**

History: 1992 AACCS; 2013 AACCS.

**R 281.395 Rescinded.**

History: 1992 AACCS; 2013 AACCS.