

Department of Licensing & Regulatory Affairs Bureau of Construction Codes

Medical Marihuana Regulation
BCC Course #CP-17-00076
3 Hour Administration

GOALS

1. **AWARENESS OF MEDICAL MARIHUANA REGULATIONS**
2. **1972 PA 230 FOCUS ON AGRICULTURAL EXEMPTIONS, ZONING, ORDINANCES, PERMITS, & CERTIFICATES OF OCCUPANCY**
3. **2016 PA 281 FOCUS ON KEY TERMS, ORDINANCE REQUIREMENTS, & LICENSE TYPES**
4. **AWARENESS, CONCERNS, ISSUES, MAJOR CODE REQUIREMENTS REGARDING THE VARIOUS FACILITIES**
5. **Q & A**
6. **PRESENTATION & CONTACT INFO**



1972 PA 230 (Ag)

- MCL 125.1502a(1)

(a) "Agricultural or agricultural purposes" means of, or pertaining to, or connected with, or engaged in agriculture or tillage that is characterized by the act or business of cultivating or using land and soil for **the production of crops for the use of animals or humans**, and includes, but is not limited to, purposes related to agriculture, farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry.

(b) "Agricultural product" means a **farm product** as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.



RIGHT TO FARM ACT (Ag)

- [MCL 286.472](#)

(c) “Farm product” means those **plants and animals useful to human beings** produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish, and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan commission of agriculture.



1972 PA 230 (Ag & Zoning)

- [MCL 125.1502a\(1\)](#)

(g) "Building" means a combination of materials, whether portable or fixed, forming a structure affording a facility or shelter for use or occupancy by individuals, animals, or property. **Building does not include a building, whether temporary or permanent, incidental to the use for agricultural purposes of the land on which the building is located if it is not used in the business of retail trade.** Building includes a part or parts of the building and all equipment in the building unless the context clearly requires a different meaning.

(o) Construction regulation **does not include a zoning ordinance** or rule issued pursuant to a zoning ordinance and related to zoning.



1972 PA 230, MCL 125.1502a (cont.)

(x) "Other laws and ordinances" means other laws and ordinances whether enacted by this state or by a county, city, village, or township and the rules issued under those laws and ordinances.

(bb) "Structure" means that which is built or constructed, an edifice or building of any kind, or a piece of work artificially built up or composed of parts joined together in some definite manner. **Structure does not include a structure incident to the use for agricultural purposes of the land on which the structure is located** and does not include works of heavy civil construction including, but not limited to, a highway, bridge, dam, reservoir, lock, mine, harbor, dockside port facility, an airport landing facility and facilities for the generation, transmission, or distribution of electricity. Structure includes a part or parts of the structure and all equipment in the structure unless the context clearly requires a different meaning.



1972 PA 230 (Ag)

- [MCL 125.1510](#)

(8) A building permit is **not required** for a building incidental to the use for agricultural purposes of the land on which the building is located if the building is not used in the business of retail trade.

1972 PA 230 (Ord & Permit)

- [MCL 125.1511](#)

If the application conforms to this act, the code and the requirements of **other applicable laws and ordinances**, the enforcing agency shall approve the application and issue a building permit to the applicant.

Except as otherwise provided in this act or the code, **the construction or alteration of a building or structure shall not be commenced until a building permit has been issued.**



1972 PA 230 (Ord & Permit)

- [MCL 125.1512](#)

An enforcing agency shall periodically inspect all construction undertaken pursuant to a building permit issued by it to insure that the construction is performed in accordance with conditions of the building permit and is consistent with requirements of the code and other **applicable** laws and ordinances.

An inspection pursuant to this section shall be solely for purposes of enforcing this act and other laws and ordinances **related** to construction of buildings and structures.



1972 PA 230 (Ord & Permit)

- [MCL 125.1512](#)

A person other than the owner, his agent, architect, engineer or builder shall not accompany an inspector or team of inspectors on an inspection, unless his presence is necessary for the enforcement of this act, or **other laws and ordinances related to construction of the building or structure**, or except with the consent of an owner, or his agent, architect, engineer or builder.



1972 PA 230 (Ord & Permit)

- [MCL 125.1512](#)

If construction is being undertaken contrary to a building permit, this act, or **other applicable laws or ordinances**, the enforcing agency shall give written notice to the holder of the building permit, or if a permit has not been issued then to the person doing the construction, notifying him of the violation of this act, or **other applicable laws and ordinances**, and to appear and show cause why the construction should not be stopped.



1972 PA 230 (Ord & Permit)

- [MCL 125.1512](#)

Without limitation on other available remedies, an interested person may apply for an order, enjoining the continuation of construction undertaken in violation of a building permit, this act, the code or **other applicable laws or ordinances**, to the circuit court for the county in which the premises are located.



1972 PA 230 (Occupancy)

- [MCL 125.1513](#)

A building or structure hereafter constructed **shall not be used or occupied** in whole or in part until a certificate of use and occupancy has been issued by the appropriate enforcing agency.

The certificate of use and occupancy shall certify that the building or structure has been constructed in accordance with the building permit, **the code and other applicable laws and ordinances.**



1972 PA 230 (Occupancy)

- [MCL 125.1513](#)

A certificate of use and occupancy shall be issued by the enforcing agency when the work covered by a building permit has been completed in accordance with the permit, **the code and other applicable laws and ordinances**. On request of a holder of a building permit the enforcing agency may issue a temporary certificate of use and occupancy for a building or structure, or part thereof, before the entire work covered by the building permit has been completed, if the parts of the building or structure to be covered by the certificate may be occupied before completion of all the work in accordance with the permit, **the code and other applicable laws and ordinances, without endangering the health or safety of the occupants or users.**



2016 PA 281 (Key Terms)

- [MCL 333.27102](#)

- (f) "**Grower**" means a licensee that is a **commercial entity** located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.
- (i) "**Marihuana facility**" means a location at which a license holder is licensed to operate under this act.
- (q) "**Processor**" means a licensee that is a **commercial entity** located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.



2016 PA 281 (Key Terms)

- [MCL 333.27102](#)

(r) "**Provisioning center**" means a licensee that is a **commercial entity** located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any **commercial property where marihuana is sold at retail** to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the Michigan medical marihuana act is not a provisioning center for purposes of this act.



2016 PA 281 (Key Terms)

- [MCL 333.27102](#)

(w) "**Safety compliance facility**" means a licensee that is a **commercial entity** that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

(x) "**Secure transporter**" means a licensee that is a **commercial entity** located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.



2016 PA 281 (Key Terms)

- [MCL 333.27102](#)

(y) "State operating license" or, unless the context requires a different meaning, "license" means a license that is issued under this act that allows the licensee to operate as 1 of the following, specified in the license:

- (i) A grower.
- (ii) A processor.
- (iii) A secure transporter.
- (iv) A provisioning center.
- (v) A safety compliance facility.



2016 PA 281 (Ordinance Required)

- [MCL 333.27205](#)

(1) A marihuana facility shall not operate in a municipality unless the municipality has adopted an **ordinance** that authorizes that type of facility. A municipality may adopt an ordinance to authorize 1 or more types of marihuana facilities within its boundaries and to limit the number of each type of marihuana facility. A municipality may adopt other ordinances relating to marihuana facilities within its jurisdiction, including zoning regulations, but shall not impose regulations regarding the purity or pricing of marihuana or interfering or conflicting with statutory regulations for licensing marihuana facilities. A municipality shall provide the following information to the board within 90 days after the municipality receives notification from the applicant that he or she has applied for a license under this act:



2016 PA 281 (Ordinance Required)

- [MCL 333.27205](#)

- (a) A copy of the local ordinance that authorizes the marihuana facility.
- (b) A copy of any zoning regulations that apply to the proposed marihuana facility within the municipality.
- (c) A description of any violation of the local ordinance or zoning regulations included under subdivision (a) or (b) committed by the applicant, but only if those violations relate to activities licensed under this act or the Michigan medical marihuana act.



2016 PA 281 (License Application)

- [MCL 333.27401](#)

(1) Beginning 360 days after the effective date of this act, a person may apply to the board for state operating licenses in the categories of class A, B, or C grower; processor; provisioning center; secure transporter; and safety compliance facility as provided in this act.

Effective Date of Act – December 20, 2016



2016 PA 281 (License Application)

- [MCL 333.27401](#)

(6) By 10 days after the date the applicant submits an application to the board, **the applicant shall notify the municipality by registered mail that it has applied for a license under this act.**

Municipality will have documentation on file (typically filed with clerk's office)



2016 PA 281 (Grower License)

- [MCL 333.27501](#)

- (1) A grower license authorizes the grower to grow not more than the following number of marihuana plants under the indicated license class for each license the grower holds in that class:
- (a) **Class A** – 500 marihuana plants.
 - (b) **Class B** – 1,000 marihuana plants.
 - (c) **Class C** – 1,500 marihuana plants.
- (7) A grower license does not authorize the grower to operate in an area **unless the area is zoned for industrial or agricultural uses** or is unzoned and otherwise meets the requirements established in section 205(1).



Construction Perspective Awareness

- Types of Facilities
 - Occupancies (Use Groups)
- Building Code Issues
- Energy Code Issues
- Plumbing Code Issues
- Mechanical Code Issues
- Electrical Code Issues



Construction Perspective Awareness

- Local Governmental Subdivision Matters
 - City/Village/Township Councils & Boards
 - Politics versus Business
 - Proximity to sensitive uses
 - Zoning Ordinances & Rules
 - Odor Issues
 - Negative neighborhood perceptions
 - Crime (Security of operations)



Provisioning Center (Dispensary)

- Stand-alone retail shops
- Group M Occupancy
- Means of Egress
- Ventilation & Odors
- Security
- Vulnerable uses
- Comparable to Liquor Stores

Provisioning Center (Dispensary)

- Generally M occupancy, with exception of a B occupancy component if patients are seen at the facility
- **SECTION 309**
- **MERCANTILE GROUP M**
- **309.1 Mercantile Group M.** Mercantile Group M occupancy includes, among others, the use of a building or structure or a portion thereof for the display and sale of merchandise, and involves stocks of goods, wares or merchandise incidental to such purposes and **accessible** to the public.



Grower (Cultivation)

- Sites that are solely cultivation facilities are generally a F Occupancy
- High-Tech Facilities
- Very controlled environments
 - Temperature & Humidity
- Ventilation & Odors
- CO2 Enrichment?
- Low occupant loads
- Mad science



Grower (Cultivation)

- **SECTION 306**
- **FACTORY GROUP F**
- **306.1 Factory Industrial Group F.** Factory Industrial Group
- F occupancy includes, among others, the use of a building or structure, or a portion thereof, for assembling, disassembling, fabricating, finishing, manufacturing, packaging, repair or processing operations **that are not classified as a Group H hazardous or Group S storage occupancy.**



Grower (Cultivation)

- **SECTION 312**
- **UTILITY AND MISCELLANEOUS GROUP U**
- **312.1 General.** Buildings and structures of an accessory character and miscellaneous structures not classified in any specific occupancy shall be constructed, equipped and maintained to conform to the requirements of this code **commensurate with the fire and life hazard incidental to their occupancy.**

Grower (Cultivation)

- How Do They Grow It?
 - Heat and Temperature Control
 - Ventilation
 - Fans
 - Air Conditioning
 - Temperature Control is KING
 - Lights & ballasts give off lots of heat



Grower (Cultivation)

- What Does It Need To Grow?
 - Water
 - Air
 - Often enriched with CO₂
 - Medium
 - Nutrients
 - Chemicals
 - To control ph levels

Grower (Cultivation)

- Hydroponics
 - Ebb & flow system
 - Reservoir with solution
 - Pump on timer
 - Pumps water and nutrient solution to the plants
 - Solution drains back to Reservoir

Grower (Cultivation)

- Ventilation
 - Large amounts of plants, photosynthesis uses up all the carbon dioxide and fills the room with oxygen
 - Plants need a fresh supply of CO₂ in the room or they stop growing

Grower (Cultivation)

- Ventilation Equipment
 - Large Squirrel Cage Fans
 - Inline Fans
 - Blowers
 - Induction Fans
 - Flex Hose Insulated Ducts
 - Oscillating Fans
 - Move the CO2
 - Strengthen the stalks
 - Cool the plants
 - Exhaust fans to eliminate the heat and excess oxygen



Grower (Cultivation)

- Temperature
 - Marijuana grows best at 68 – 72 degrees and will stop growing at temps above 90 degrees
- High Humidity
 - No Code Requirements for excessive humidity

Grower (Cultivation)

- Lighting Equipment
 - High Intensity Discharge (HID) Grow Lights
 - High pressure sodium
 - Metal halide
 - 250-1,000 watt bulbs
 - Requires ballast
 - Equals increased heat and fire hazard
 - Compact Fluorescent Grow Lights
 - 300 Watts
 - LED Grow Lighting
 - Lower temperature



Grower (Cultivation)

- Lighting Equipment
 - Lighting Reflectors
 - Ceiling and walls
 - Directs lights onto plants
 - Reduces waste of lighting
 - Mylar used on walls

Processor (Manufacturing)

- Sites that are solely manufacturing are generally a F occupancy
- Moderate occupant loads
- Means of Egress
- Ventilation & Odors
- Human work environment
- Trimming & packaging

Processor (Manufacturing)

- Extraction Nightmares
 - Flammable gases being used without proper safeguards
 - Tragic results
 - Emergency orders
 - Ratcheting the code
 - Tarnishes the industry



Processor (Manufacturing)

- Extraction
 - Depending on the amount of solvent that is used, the extraction area could be classified as a Group H-2.
 - Ventilation is required regardless of occupancy classification.

Processor (Manufacturing)

- Processing & Packaging

- [F] 307.5 High-hazard Group H-3. Buildings and structures containing materials that readily support combustion or that pose a physical hazard shall be classified as Group H-3. Such materials shall include, but not be limited to, the following:
 - Class I, II or IIIA flammable or combustible liquids that are used or stored in normally closed containers or systems pressurized at 15 pounds per square inch gauge (103.4 kPa) or less.
 - Combustible fibers, other than densely packed baled cotton, where manufactured, generated or used in such a manner that the concentration and conditions create a fire or explosion hazard based on information prepared in accordance with Section 414.1.3



Processor (Manufacturing)

- Group F-1 Occupancy
- Group H Occupancy?
- High quality process
- Use-Closed Systems
- Sophisticated science
- Same concerns of any industrial use

Processor (Manufacturing)

- **SECTION 307 - HIGH-HAZARD GROUP H**
- **[F] 307.1 High-hazard Group H.** High-hazard Group H occupancy includes, among others, the use of a building or structure, or a portion thereof, that involves the manufacturing, processing, generation or storage of materials that **constitute a physical or health hazard** in quantities in excess of those allowed in *control areas* complying with Section 414, based on the maximum allowable quantity limits for *control areas* set forth in Tables 307.1(1) and 307.1(2). Hazardous occupancies are classified in Groups H-1, H-2, H-3, H-4 and H-5 and shall be in accordance with this section, the requirements of Section 415 and the *International Fire Code*. Hazardous materials stored, or used on top of roofs or canopies, shall be classified as outdoor storage or use and shall comply with the *International Fire Code*.



Safety Compliance Facility (Testing)

- Generally a B occupancy
- Lab environments
- Low occupant loads
- All retail products will be required by law to be tested for potency and purities
- Labeling/Dosage
- Near invisible use



Safety Compliance Facility (Testing)

- **SECTION 304**
- **BUSINESS GROUP B**
- **304.1 Business Group B.** Business Group B occupancy includes, among others, the use of a building or structure, or a portion thereof, for office, professional or service-type transactions, including storage of records and accounts.



Mixed Use (Multiple Licenses)

- Group B,F,H,M,S, & U occupancies in the mix
- Managing the varied environments for code issues
- Fire separation/Fire sprinklers?
- Larger facilities
- May be common in your locality
- Ordinances must provide allowance

Clandestine & Small Ops Concerns

- Heat
- Electrical loads & consumption
- Ventilation rate
- Carbon dioxide
- Egress
- Humidity
- Odor

Personal Grow Operation

- How does the Residential Code apply?
- Number of plants are typically limited by law
- Odor Issues
- Neighborhood Issues (increased traffic)
- Crime (security issues)
- Who regulates?



Personal Grow Operation Issues

- Electrical Hazards
 - Unsafe electrical practices
 - Open wiring
 - Inadequate fuses or circuit breakers
 - Bad connections
 - Overloading of circuits
 - 24 more times likely to catch fire

Personal Grow Operation Issues

- Lighting Hazards
 - Grow light bulbs surface temperature
 - Approximately 500 degrees Fahrenheit
 - Grow lights are under pressure

Personal Grow Operation Issues

- Health Hazards
 - Optimal conditions exist for mold growth
 - Mold
 - Heat
 - Excess Humidity
 - Cellulose

Personal Grow Operation Issues

- Chemical Hazards
 - Explosive/toxic fumes from “weed oil” extraction
 - Butane, Sulfuric Acid, Methanol, Isopropyl Alcohol, Toluene
 - Fertilizers
 - Plant & Water Conditioners

Plumbing Concerns

- Non-permitted installations
- Backflow Prevention?
 - Lawn Irrigation System
 - Chemical Fertilizer Dispensers
- Pipe Installations
 - Support
 - Sizing

Electrical Concerns

- Non-permitted installations
- Total electrical load
- Wiring methods utilized



Mechanical Concerns

- Non-permitted installations
- Proper ventilation
- Gases exhausted



Code Concerns

- Means of Egress
 - Security Issues
 - Egress doors shall be readily openable from the egress side without the use of a key or special knowledge or effort.
 - Will need to evaluate locking arrangements.

Code Concerns

- Fire Sprinklers
 - F-1 exceeding 12,000 square feet
 - All Group H Occupancies
 - Group M Occupancies fire area exceeds 12,000 square feet.



Code Concerns

- **SECTION 403**
- **MECHANICAL VENTILATION**
- **403.1 Ventilation system.** Mechanical ventilation shall be provided by a method of supply air and return or *exhaust air* except that mechanical ventilation air requirements for Group R-2, R-3 and R-4 occupancies three stories and less in height above grade plane shall be provided by an exhaust system, supply system or combination thereof. The amount of supply air shall be approximately equal to the amount of return and *exhaust air*. The system shall not be prohibited from producing negative or positive pressure. The system to convey *ventilation air* shall be designed and installed in accordance with Chapter 6.



Code Concerns

- **501.3 Exhaust discharge.** The air removed by every mechanical exhaust system shall be discharged outdoors at a point where it will not cause a **public nuisance** and not less than the distances specified in Section 501.3.1 of the code. The air shall be discharged to a location from which it cannot again be readily drawn in by a ventilating system. Air shall not be exhausted into an attic or a crawl space, be directed onto walkways, or terminate within 3 feet of a ventilated section in a soffit.

Code Concerns

- **401.6 Contaminant sources.** Stationary local sources producing air-borne particulates, heat, odors, fumes, spray, vapors, smoke or gases in **such quantities as to be irritating** or injurious to health shall be provided with an exhaust system in accordance with Chapter 5 or a means of collection and removal of the contaminants. Such exhaust shall discharge directly to an ***approved*** location at the exterior of the building.

Code Concerns

- Electrical
 - All electrical equipment to be listed and labeled by an approved testing agency
 - Flexible cords not permitted to be substituted for fixed wiring systems
 - Can't run through walls, doors, ceiling, etc.
 - Approved wiring methods required
 - NM cable not allowed for use in damp locations such as cultivation facilities



INFORMATION

- Presentation & material available on request

