



Temporary Labor Camp Farm Labor Housing

Craig Anderson

MFB – Agricultural Labor and Safety Services



Past Housing Rules Development

- Over many decades farm labor housing has been part of Michigan farming
 - Cahodas Orchards alone employed/housed 1,400
 - Mechanization decreased need – maybe 300 in county today (Manistee)
 - Close to 40,000 workers in Grand Traverse region



\$4M sales in 1968
Equal to
\$34M in 2021

Ag-Related Housing Regulation – Federal

- Rural Development Section 514/516 Housing
- Agricultural Recruitment System
- Temporary Agricultural Employment (H-2A)
- Migrant And Seasonal Agricultural Worker Protection Act (MSPA)
- OSHA Temporary Labor Camps
- Employment and Training Administration – Housing for Farmworkers
 - Others – Worker Protection Standard, Fair Housing Act, Food Safety Modernization Act, GAP, GHP...

Ag-Related Housing Regulation – State

- MI Public Health Code/MDARD Labor Camp Regulations
 - Local Health Department – Water, Septic
- MIOSHA Temporary Labor Camps
- Local Zoning - Michigan Zoning Enabling Act
 - Others - Elliott-Larsen Civil Rights Act, Natural Resources And Environmental Protection Act (NREPA), Landlord And Tenant Relationships...

Housing Rules – Federal

Rural Development Section 514 [HB-1-3560](#)

- On-Farm and Off-Farm Housing Programs
[7 CFR 3560.559](#)
 - Requirements
 - Site
 - Environmental
 - Design
 - Construction
 - Housing Management Plan
 - Generally, construction design is for year-round occupancy

Statutory Required Housing – Federal/State State Workforce Agency

Agricultural Recruitment System 20 CFR 653.501(c)(3)

(vi) The availability of no cost or public housing which meets the Federal standards and which is sufficient to house the specified number of workers requested through the clearance system. This assurance must cover the availability of housing for only those workers, and when applicable, family members who are not reasonably able to return to their residence in the same day.

D. Housing Information

1. Housing Address/Location *			
2. City *	3. State *	4. Postal Code *	5. County *
6. Type of Housing *		7. Total Units *	8. Total Occupancy *
9. Housing complies or will comply with the following applicable standards: *		<input type="checkbox"/> Local <input type="checkbox"/> State <input type="checkbox"/> Federal	
10. Additional Housing Information. (If no additional information, enter <u>NONE</u> below) *			
11. Is a completed Addendum B providing additional information on housing that will be provided to workers attached to this job order? *			<input type="checkbox"/> Yes <input type="checkbox"/> No

Statutory Required Housing – H-2A Contracts – Federal

Temporary Agricultural Employment 20 CFR 655.122(d)

(1) The employer must provide housing at no cost to the H-2A workers and those workers in corresponding employment who are not reasonably able to return to their residence within the same day...

- (i) Employer-provided housing
- (ii) Rental and/or public accommodations

Must comply with federal standards

Housing Rules - Federal

Migrant and Seasonal Agricultural Protection Act (MSPA) [29 CFR Part 500.130](#)

- Each person who owns or controls housing for any **covered** migrant agricultural worker must ensure it complies with all substantive Federal and State safety and health standards **applicable to such housing** (ETA 20 CFR 654.404 or 29 CFR 1910.142)
 - Migrant – a person who is employed in agricultural employment of a **seasonal or other temporary nature**, and who is required to be absent **overnight from his permanent place of residence** [29 CFR 500.20\(p\)](#)
 - Provide Housing Disclosure(s) [29 CFR 500.75\(f\)](#)

Housing Rules – Federal

- MSPA enforced by US DOL Wage and Hour using ETA or “OSHA” standards [29 CFR 500.132](#)
 - ETA Housing for Farmworkers [20 CFR 654 Subpart E](#)
 - Applies to older facilities – 1980
 - OSHA Temporary Labor Camps [29 CFR 1910.142](#)
 - Actions issued may be issued under MSPA rather than OSHA standard or ETA rules
- Compliance is determined at time of inspection

Housing Rules – Federal

OSHA Temporary Labor Camps [29 CFR 1910.142](#)

- Applies to both agricultural and non-agricultural temporary labor housing for 1 or more
- US DOL OSHA may enforce Temporary Labor Camps Standard
 - Enforcement generally by complaint
 - Retains egg, poultry, or red meat production, or the post-harvest processing of agricultural or horticultural commodities
 - May refer to MIOSHA
 - MI is a State Plan State, retains enforcement [OSHA FOM 12-2](#)

Delegation of Authority and Assignment of Responsibility to the Assistant Secretary for Occupational Safety and Health

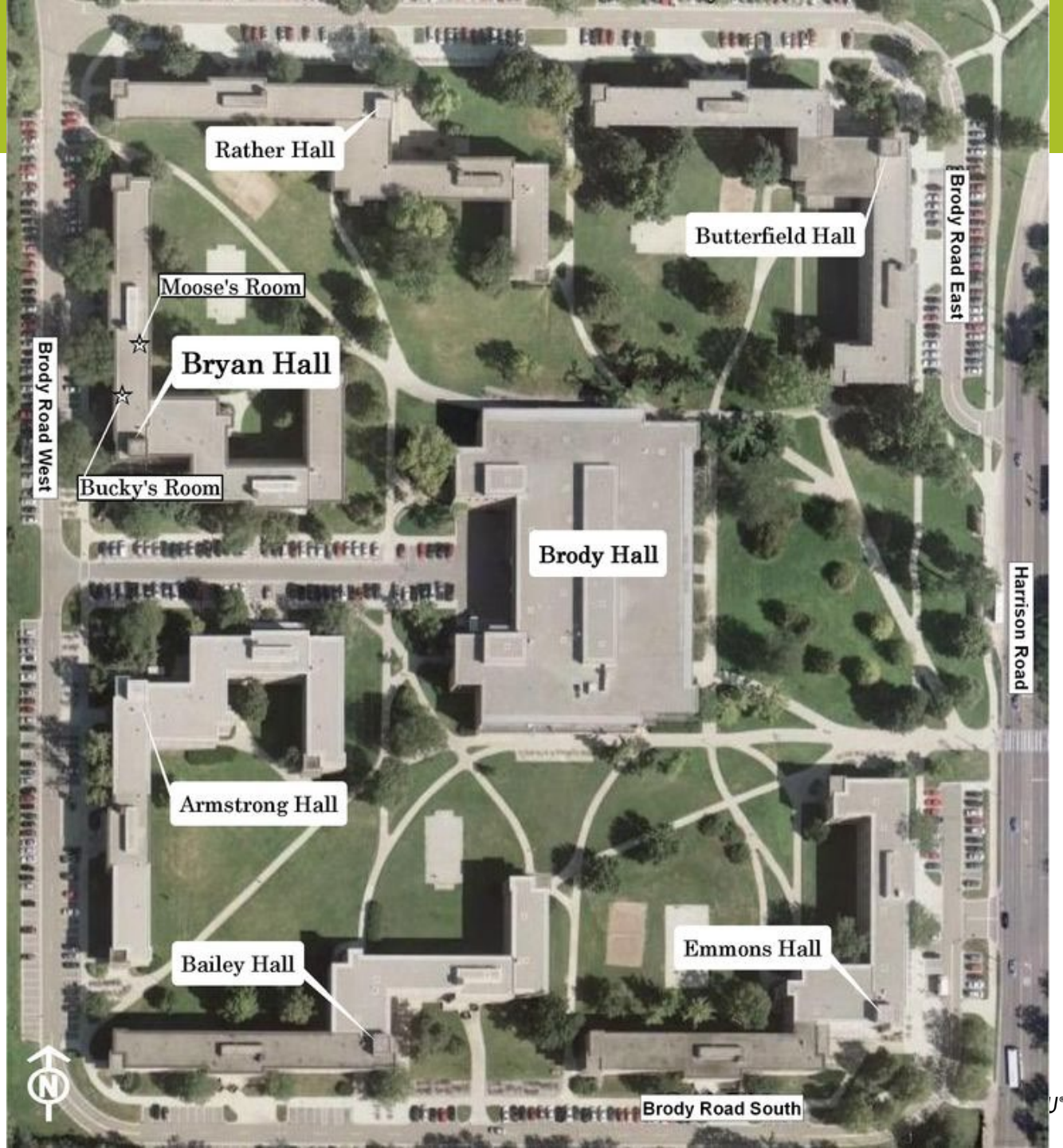
Housing Rules – State

MIOSHA –Temporary Labor Camps [Part OH 511](#)

- Applies to all camps regardless of size
- Enforcement generally by complaint or event
- Adopts federal OSHA standard with additions
 - Incorporates FDA 2005 Food Code for some locations [Chapter 6](#)
- Field Sanitation [Standard OH Part 55](#)
- COVID [Emergency Rule](#)

Note: Federal funding prohibition for [farming operations with 10 or fewer](#) does not apply – can use state funds if applied

Dorm Rooms
are 174 sq.
feet, MSU
has allowed 4
in a room
OSHA code
allows 2



Housing Rules – State

Michigan Public Health Code [MCL 333.12401-12434](#)

- Includes primary inspection/license requirements
 - Most implementation provisions transferred to MDARD
- Local Public Health Departments retain certain water and waste provisions – NREPA overlap
- DHHS Mandatory Farmworker COVID testing
 - All housing residents over 18 years of age [8/14/20](#)
[Emergency Order](#)

Housing Rules – State

MDARD – Inspection/License [R 325.3601-3699](#)

- Living quarters for 5 or more migratory laborers [on a property] engaged in agricultural activities **must be inspected and licensed prior to occupancy**
- Applies to all rule-defined housing regardless of ownership
- Likely adoption of an [Executive Order](#) type Emergency Rule

Housing Rules – State

• MDARD – Electrical/Heating Affidavits



HEATING FACILITIES AFFIDAVIT FOR AGRICULTURAL MIGRANT LABOR CAMPS Migrant Labor Housing Program



Camp Operator and Location:

Camp Operator or Owner Name: _____

Camp ID: _____ Camp Name: _____

Camp Address: _____

Street Number and Name City Zip Code County Name

Facilities Inspected:

(1) Unit #	(2) Inspection Date	(3) Heater Make or Style	(4) BTU or Watt Ratings	(5) Fuel Type	(6) Heating Period (mm/dd/ yyyy) Heater is capable of maintaining min 65°F	
					From	To

*Use attachment for additional space, if needed.

Affidavit Certification:

I, the undersigned, have personally inspected the heating system(s) described above and in the attached table and found it to be operational, safely installed, vented to prevent fire hazards and dangerous concentrations of gases, and in accordance with prevailing acceptable installation practice. For the time period indicated above and based on the construction material type and insulation rated R values, I have calculated that the heating system to be capable of maintaining each living unit as described in the table above at a minimum of 65°F.

Inspector/Contractor Name (Print): _____

Business Name: _____ Phone: _____

Business Address: _____

License Number: _____ State License Issued: _____

License Issuance Date and Expiration Date: _____ / _____

Signature: _____ Date: _____

(Or)

Name of Local Inspection Authority: _____ Permit Number: _____

Date of Final Approval: _____ *Please Attach copy of permit if applicable

Heating Affidavit
(2/16)

Authority: 1978 PA 368, as amended
Completion Required



ELECTRICAL SYSTEM AFFIDAVIT FOR AGRICULTURAL MIGRANT LABOR CAMPS Migrant Labor Housing Program



Camp ID: _____ Camp Operator or Owner Name: _____

Camp Name: _____

Camp Address: _____

Street Number and Name City Zip Code County Name

Facilities Inspected

Unit #	Building Type or Use	Inspection Date	New Work or Existing Wiring	Work Performed or Comments
			<input type="checkbox"/> NEW <input type="checkbox"/> EXISTING	
			<input type="checkbox"/> NEW <input type="checkbox"/> EXISTING	
			<input type="checkbox"/> NEW <input type="checkbox"/> EXISTING	
			<input type="checkbox"/> NEW <input type="checkbox"/> EXISTING	
			<input type="checkbox"/> NEW <input type="checkbox"/> EXISTING	
			<input type="checkbox"/> NEW <input type="checkbox"/> EXISTING	

*Use attachment for additional space, if needed.

Have electric heaters been installed or repaired (CIRCLE ONE): YES NO

If YES, please attach Heating Affidavit

Affidavit Certification

I, the undersigned, have personally inspected the electrical wiring system(s) described above and have determined that at the time of my inspection:

- Newly installed electrical wirings and loads are in substantial conformance with the current National Electrical Code (NEC) requirements used in the jurisdiction where the housing is located.
- Existing electrical wiring and loads are found safe and adequate for the building being served.

Inspector/Contractor Name (Print): _____

Business Name: _____ Phone: _____

Business Address: _____

License Number: _____ State License Issued: _____

License Issuance Date and Expiration Date: _____ / _____

Signature: _____ Date: _____

(Or)

Name of Local Inspection Authority: _____ Permit Number: _____

Date of Final Approval: _____

*Please Attach copy of permit, if applicable.

Electrical Affidavit
(1/16)

Authority: 1978 PA 368, as amended
Completion Required



“Public Accommodation” or “Camp”

Board and Room Facility [MCL 125.1513c\(2\)](#)

- BOCA 1993 or Uniform Housing Code 1991 plus specific fire related requirement

Hotel [MCL 427.3](#) and many others

- Fire, kitchen, elevator, many other standards

Zoning – Local Control

- The regulation of land use and zoning is traditionally reserved to state and local governments, except to the extent that it conflicts with requirements imposed by other state or federal laws such as the Fair Housing Act [DOJ and HUD Statement](#)

Michigan Zoning Enabling Act

- Sec. 207. A zoning ordinance or zoning decision **shall not have the effect of totally prohibiting the establishment of a land use** within a local unit of government in the presence of a demonstrated need for that land use within either that local unit of government or the surrounding area within the state, unless a location within the local unit of government does not exist where the use may be appropriately located or the use is unlawful.

What Has and Is Happening?

- *Frens* – “Consistent Applicable Provisions”
 - “The approval of plans or the issuance of a permit pursuant to this code which involves the construction, alteration, or renovation of a building, structure, or premises, the use of a site, or the installation or alteration of equipment **does not relieve the person receiving the approval or permit from complying with all consistent applicable provisions** of building and construction laws, zoning requirements, and other state and local statutes, charters, ordinances, rules, regulations, and orders.” MCL 333.1203
 - “Although the rules do not contain a provision that parallels the location limitation in the zoning ordinance, this rule demonstrates that **local control of agricultural labor camps is still permitted.**” Court decision

Mayfield Township

Agricultural labor housing and/or migrant housing

- a) Minimum parcel size is 20 acres.
- b) Migrant Farm Worker Residents of housing must be employed in the farm operation with evidence provided in the form of pay stubs, time sheets, etc. Upon request of the zoning administrator, the land owner must furnish the names, contact information, citizenship records, and duration of stay (arrival and departure) of inhabitants of all migrant housing.
- c) Setback one hundred (100) feet from parcel lines and public and private roads.
- d) Screened from existing residential structures.
- e) Setback two hundred (200) feet from the principal dwelling. Ordinance 4.29

Sullivan Township

Proposed then Revised

As Proposed:

- Located on the same property as the principal use
- Minimum 10 acres
- Occupied only April 15th to November 15th
- Must be employed by that farming operation
- 100' side/300' from road setbacks
- “Special conditions” to “protect” property value
- **125% “destruction bond”**
 - **If not used, must be destroyed after 2nd season**
- Annual special permit renewal
 - Special Permit revocation in 15 days for any violation of Township, county, state or federal laws

Application of *Putney*

- Village of Elberta was deemed to have excluded housing:

“the Village of Elberta has no constitutional authority, in fact, it would offend the constitution of the state of Michigan and the United States to put a condition on that agricultural workers cannot live in apartments in the Village of Elberta.”

Summary

- Farmworker housing is covered by a variety of statutory and regulatory structures
- Many are overlapping
- Several provisions may accept other “applicable” standards

Questions?