

CANNABIS BUSINESS GUIDE:
CANNABIS
CULTIVATOR



Interested in opening a Cannabis Cultivator in New York City?

Begin by getting familiar with the [Adult-Use Cultivator License Overview](#) from the [Office of Cannabis Management of New York State \(OCM\)](#) as well as the complete cannabis regulations. To apply for a cultivator license from OCM you must first secure a controlled site for the enterprise. Because most cannabis cultivators are small businesses, cultivator licensees may reach out to [Cannabis NYC](#) and DOB's [Small Business Team](#) to get one-on-one guidance on your project.

According to OCM regulations, **Adult-Use Cultivator (AUC)** licensees are authorized to grow, clone, harvest, dry, cure, grade, and trim cannabis plants, and sell such cannabis to a processor, or process cannabis products under their own processor license.

This guide will explain NYC Construction Codes Construction Classification of the building, the zoning Use Group (UG), and Occupancy Group of the activities you may choose to include in your cultivator establishment. Knowing the UG tells you where your business can be located, the Construction Classification helps you to choose the right type of building structure, and the Occupancy Group determines special requirements for things like egress and fire safety elements.

We encourage you to hire a registered design professional (RDP) to help you navigate the process from the beginning, as setting up a cultivation establishment involves work that requires DOB permits, like sprinklers and mechanical equipment to control odor.

Permitted Activities According to Use Groups & Districts

In accordance with Cannabis Law, cultivation activities include growing, cloning, harvesting, drying, curing, grading, and trimming of cannabis plants for sale to certain other categories of cannabis license- and permit-holders. If OCM grants you an additional processor and distributor license, you will have to make sure that the location where you wish to open your business allows all the UGs that your cultivation

business is planning to engage in. In some instances, a use may be considered accessory to another principal use and be permitted where the principal use is permitted. Refer to the [NYC Guide to Locating Cannabis Businesses in Compliance with the Zoning Resolution](#) for details.

Cultivation can occur either indoor or outdoor, or a combination of both, to the extent your cultivator license permits. Indoor cultivation means the cultivation of cannabis within an enclosed climate-controlled structure using only artificial light, heat, carbon dioxide generators, and dehumidification. Outdoor cultivation means the cultivation of mature cannabis under natural sunlight and weather conditions.

Flowering cannabis plants produce odor, therefore some kind of enclosure of the cultivated area (combined with odor mitigation technology) would most likely be required to comply with zoning requirements of agriculture uses, such as UG 4B and 17C.

In **Residence Districts, Commercial Districts, and M1 Manufacturing Districts**, cultivation may be classified as UG 4B, which permits greenhouses, and requires that *no offensive odors or dust are created*. For UG 4B, a greenhouse is used to control odor, which could be at grade or on the roof of a building. An enclosed building other than a greenhouse would not be permitted because UG 4B is specified in the zoning regulations as an *open use*, which includes a greenhouse.

In **M1 – M3 Manufacturing Districts**, cultivation may be classified as UG 17C, which is subject to performance standards, including odor performance standard indicated in ZR 42-24. For UG 17C, the cultivation could either take the form of a greenhouse at grade, a greenhouse on the roof, or a completely enclosed building, subject to zoning limitations on the bulk of buildings.

Your cultivation business may also include accessory wholesale (of your own product, if permitted by OCM), storage, and general office area. They are not required to be separately classified into zoning use groups. DOB will verify such accessory use(s) case-by-case through plan review.

The following table summarizes the zoning group discussion above:

Cultivator Facility Location	Zoning Use Group of the Facility*	Zoning Districts Permitted*
Greenhouse on grade or on rooftop	4B	R1 – R10 C1 C2 C3 C4 C5 C6 C8 M1
Enclosed building, Greenhouse on grade or on rooftop	17C	M1 M2 M3

* *NOTE: Zoning regulations proposed by the [City of Yes: Economic Opportunity text amendment](#) would change the conditions in which cultivation may occur. These changes are expected to be adopted in mid-June.*

Occupancy Classifications

Each area of a cultivator business with a different activity has a designated Occupancy Group and will trigger different safety requirements specific to each activity per the NYC Construction Codes.

When plants are being grown, processed, and packaged inside an enclosed climate-controlled structure, either in a building or in a greenhouse, with limited use of chemicals such as sulfur and natural gas, the building would be F-1 occupancy (moderate-hazard factory industrial). However, if the chemicals used in the cultivation exceed the quantities prescribed in BC Tables 307.1(1) & (2), the cultivation area may have to be classified as a hazard (H-2 or H-3) occupancy.

The storage of the products may be classified as S-1 (similar to tobacco) or S-2 occupancy (similar to food products), depending on the level of fire hazard. The space for your general business operation, such as billing and record keeping, are typically group B occupancy.

If you hold a stand-alone indoor cultivator license, your growing space (F-1 occupancy) may be the main occupancy, and your office (B occupancy) may be the accessory occupancy. Each occupancy must be individually recorded in the Certificate of Occupancy (CO). According to BC 508, there are two ways to design the fire separation and fire protection. One way is to individually classify each occupancy and separate them with fire-rated construction. Alternatively, if there is no fire-rated separation between them, the fire protection system for the cultivation must cover both the cultivation (F-1) and the accessory uses (S-1, S-2 or B).

If you have other licenses in addition to a cultivator license, consult with your RDP to determine which one is your main occupancy and DOB will review them case-by-case.

The following table summarizes the occupancy classification discussions above:

Activity	Additional Concerns	Occupancy Classification
Indoor cultivation	Limited use of sulfur and natural gas	F-1
	Chemical use exceeds BC Table 307.1(1) & (2)	H-2 or H-3
Storage	Stored products similar to tobacco	S-1
	Stored products similar to food	S-2
Office		B

Building Construction Classifications

After you determine the occupancy class of your cultivating business, you need to select a building with the right construction class to host your business, preferably a non-combustible construction, typically which the structure is masonry, concrete or



steel. There are some special geographic territories in NYC called fire districts that require higher fire safety standard. Manhattan, Brooklyn, and the Bronx are entirely within the fire districts; Queens and Staten Island are partially within. Do not locate your establishment in wood frame structures as they are not permitted within fire districts, even if they are sprinklered.

Depending on the year the building was erected, a non-combustible building permitted to host a cultivator in the fire district may be classified as one of the following on the CO:

Year Building was Erected	Non-combustible Construction Classifications
Pre-1968	Class 1 Fireproof Structure (Old Code) Class 2 Fire-protected (Old Code)
1968-2008	I-A: 4-Hour Protected (Non-Combustible) I-B: 3-Hour Protected (Non-Combustible) I-C: 2-Hour Protected (Non-Combustible) I-D: 1-Hour Protected (Non-Combustible)
After 2008	I-A: 3-Hour Protected (Non-Combustible) I-B: 2-Hour Protected (Non-Combustible) II-A: 1-Hour Protected (Non-Combustible) II-B: Unprotected (Non-Combustible)

If the building does not fall under one of these non-combustible classes in the table above, be sure to discuss with a Registered Design Professional (RDP) to assess the building.

Certificate of Occupancy

A CO describes the legal use and type of permitted occupancy in a building and confirms that the completed work substantially complies with all applicable laws. When the use of a space changes and no longer matches the CO, a new CO is required in most instances. The process to get an updated CO is called an Alteration-CO filing. See information on [Alteration-CO in DOB NOW: Build](#) and [general Alteration-CO information](#).

Remember that any alteration work that requires filing a DOB application must comply with all requirements of the NYC Construction Code and Zoning Resolution, and obtain all necessary construction permits and sign-offs. Aside from NYC Construction Code, there are State regulations pertaining to mitigation of odor, smoke, and fine particles throughout the premises, which should be reflected in construction plans.

In addition to DOB requirements, please note that other NYC agencies, such as DEP and FDNY also have separate requirements that your business shall follow. For example, complaints of odor may lead to DEP violations and possibly to closing of the business. Therefore, your business plan should incorporate an acceptable mitigation program including carbon filtration, vapor-phase systems, or other technology approved by OCM.

Refer to Part IV of the Adult-Use Retail Dispensary Guide for information about how to file the proposed work within the Small Business Help Form and remember to select the Cultivator license type, if you hold a stand-alone cultivator license. In the **Comment** section of the PW1 form, you must enter the keyword **cannabis cultivator**. If you hold multiple license types, select the license type your RDP has determined as the main occupancy, and note all license types in the PW1 comment section.

RESOURCES

- **NYC Small Business Services - Cannabis NYC:** visit nyc.gov/cannabis or call (888) SBS-4NYC | (888) 727-4692
- DOB's **Small Business Team:** for DOB filing assistance, visit nyc.gov/dob-sbt
- **NYS Office of Cannabis Management** for detailed regulations pertaining to adult-use cannabis licenses, call (888) 626-5151 or visit them online at cannabis.ny.gov/adult-use
- Use the [NYC Guide to Locating Cannabis Businesses in Compliance with the Zoning Resolution](#) to learn where Zoning Use Groups are allowed.

