

CANNABIS BUSINESS GUIDE:
MICROBUSINESS



Interested in opening an adult-use cannabis microbusiness in NYC? First, you must apply for a microbusiness license from the **Office of Cannabis Management of New York State (OCM)** before or after you have secured a tenant space for the enterprise. Next, become familiar with **OCM's Adult-Use Microbusiness License Overview** as well as the **complete cannabis regulations**. Because cannabis microbusinesses are Small Businesses, the microbusiness licensees may start their project with **DOB's Small Business Team** to get one-on-one guidance for your project.

According to OCM regulations, establishments under a microbusiness license have a unique ability to engage in the full range of cannabis business activities, from cultivation to processing and wholesale distribution to retail sales with or without on-site consumption. You can also provide delivery service for your products. Because of these various business activities, compliance with the NYC Zoning Resolution and the NYC Construction Codes can be complicated.

Therefore, we encourage you to hire a registered design professional to help you navigate the process. This guide will explain the zoning Use Group (UG) and Building Code Occupancy Group of the activities you choose to include in your microbusiness. Knowing the UG tells you where your business can be located, and the Occupancy Group guides you on egress and fire safety elements.



PERMITTED ACTIVITIES ACCORDING TO USE GROUP & DISTRICTS

Under a microbusiness license you are required to have **cultivation** as part of your operation, and one or more of the activities listed in the table. Find the relevant functions in the use chart, then reference the [NYC Guide to Locating Cannabis Businesses in Compliance with the Zoning Resolution](#).

Be sure to check that the location where you wish to open your business allows all the UGs your microbusiness is planning to engage in. For example, a microbusiness may decide to specialize in cultivation (UG 17C), processing in a manner akin to a manufacturer of food products (UG 17B) and wholesale distribution (UG 16D). The microbusiness would seek a property located within an M1, M2 or M3 District for these activities. See additional examples at the end of this guide.

Note that an activity listed in this section/table may qualify as an accessory use, instead of being categorized as a Zoning Use Group individually, if certain conditions are met. **Accessory uses** must be customary and incidental to the primary use. DOB will determine case-by-case through plan review if a use qualifies as an accessory use.

ACTIVITY	USE GROUP	ZONING USE NAME	DISTRICTS PERMITTED	BUILDING CODE OCCUPANCY GROUP
Cultivation <i>(must be part of the business operation)</i>	4B*	Agriculture, open, including greenhouses	R1 - R10 C1 C2 C3 C4 C5 C6 C8 M1	F-1, F-2 S-2
	17C**	Agriculture	M1 M2 M3	F-1, F-2 (indoor) S-2 (outdoor)
Retail Sales	6C	Cigar/tobacco store	C1 C2 C4 C5 C6 C8 M1 M2 M3	M (retail only) B (retail with consumption)
	12B	Cigar/tobacco store	C4 C5 C6 C8 M1 M2 M3	
Wholesale/ Distribution	7C	Wholesale establishment, limited to no more than 1,500 sf of floor area	C2 C6 C8 M1 M2 M3	S-1, S-2
	11B	Wholesale establishment, limited to no more than 2,500 sf of floor area	C5 C6 C8 M1 M2 M3	
	16D	Wholesale establishment, no size limit	C8 M1 M2 M3	
Processing: includes water extraction, blending, infusing; packaging and labeling; branding	6A	Bakery, provided the floor area used for production is limited to 750 sf per establishment	C1 C2 C4 C5 C6 C8 M1 M2 M3	F-1
Processing: includes water extraction, blending, infusing; packaging and labeling; branding	17B	Tobacco manufacturing establishment, or Food product manufacturing establishment	M1 M2 M3	F-1
Processing: includes solvent extraction; packaging and labeling; branding	18A**	Solvent Extracting	M1 M2 <i>(if M1 or M2 performance standards are met)</i> M3	H-2, H-3

* Agriculture qualifying as Use Group 4B must meet the following standard in ZR 22-14: "(...) no offensive odors or dust are created (...)" DOB anticipates that only cannabis grown in greenhouses equipped with odor mitigation technologies will meet this standard for odor and therefore qualify as Use Group 4B.

** Agriculture and Processing utilizing solvent extraction may also qualify as an accessory use to another zoning use in this chart only if it is customary and incidental to the primary use. If it qualifies as an accessory use, it would not be considered a separate use group.



Under OCM regulations, the retail portion of a microbusiness can be located in a different place than the other activities of that same microbusiness licensee, as long as they are within the same borough. For instance, one location may contain cultivation and processing activities (Use Groups 17C and 17B) while another location offers retail sales (Use Group 6C). Per OCM regulations, retail spaces for a microbusiness license may contain a consumption facility, which will have additional requirements and restrictions.

OCCUPANCY CLASSIFICATIONS

Each area of a microbusiness with a different activity has a designated Occupancy Group and will trigger different safety requirements specific to each activity, per the New York City Construction Code.

For example, an extraction room may be a Factory (F-1 or F-2) or Hazard (H-2 or H-3) occupancy depending on the type of extraction method proposed. Areas for indoor cultivation or packing/loading would be either F-1 or F-2 occupancy depending on the proposed level of hazards associated with these activities. Retail is mercantile but can also be a business occupancy if it has seating areas for consumption of cannabis products.



CERTIFICATE OF OCCUPANCY

A Certificate of Occupancy (CO) describes the legal use and type of permitted occupancy in a building and confirms the completed work substantially complies with 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 (Alt-CO)** filing. See informational material pertaining to an **Alt-CO** filing, including the **DOB NOW process**. In addition, **detailed CO guidance** is available for a separate retail store location.

Remember, any alteration work requiring a DOB application filing must comply with all requirements of the NYC Construction Code, Zoning Resolution, and must obtain all necessary construction permits and sign-offs. Aside from the 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. Complaints of odor could lead to DEP violations or other enforcement. So your business plan should incorporate an acceptable mitigation program including carbon filtration, vapor-phase systems, or other technology approved by OCM.

Furthermore, a FDNY permit approval may be required for premises where hazardous or flammable materials are to be used, i.e., ethanol, butane, propane, or hydrocarbon which are often used in extraction. A registered design professional can help you navigate the FDNY permit requirements.

Refer to Part IV of the **CAURD Dispensary Guide** for information about how to file the proposed work within the **Small Business Help Form** and remember to select the correct license type applicable to your business – in this case, the Microbusiness license type.

EXAMPLES

The next pages feature some examples, for reference purposes only, of microbusinesses and the way their activities would be categorized according to NYC Zoning Resolution and the NYC Building Code:

EXAMPLE 1



Mary Jane wants to grow 5,000 square feet of cannabis in greenhouses and plans to cure and sell flowers to consumers by delivery. She rents the rooftop of a building in an M1 zoning district for her greenhouses and a room in the building below for agricultural processing. These activities would be considered Use Group 17C agriculture and Occupancy Group S-2. Since the rooftop was unoccupied, she will file an Alt-CO application to amend the CO and install greenhouses. Mary Jane will hire a structural engineer to ensure the roof can hold the added load.

EXAMPLE 2



Desiree envisions a vertically integrated business with aspects of cultivation, processing and retail all being large parts of the business plan. She takes over a three-story building in an M1 zoning district, with retail on the ground floor, processing on the second floor with separate rooms for a small closed-loop ethanol extractor, curing and bottling; and indoor cultivation (3,500 square feet) on the top floor. These activities are recorded on the amended CO for the building as Use Group 6C retail on the ground floor, Use Group 17B processing on the second floor, and Use Group 17C agriculture on the third floor.

Respectively, their Occupancy Groups are M, H-3 and F-2. Since the storage amount of ethanol exceeds that permitted by the Fire Code, Desiree also obtained FDNY approval.

EXAMPLE 3



Chris plans a microbusiness with a retail focus. He finds a storefront to rent in a C1 zoning district and plans to set aside a small area (500 square feet) for cultivation. He will purchase the rest of his cannabis from growers elsewhere in the state. Chris is able to continue using the CO for the building, which already listed the ground floor as Use Group 6 retail. The cultivation and packaging he will do will take up much less space than the retail, so these incidental activities are considered accessory uses according to zoning regulations. The retail would be considered Occupancy Group M, and the other uses would be considered incidental and part of the M Occupancy Group.

RESOURCES

- Contact **DOB's Small Business Team** for DOB filing assistance, visit nyc.gov/sbt
- Contact the **NYC Small Business Services** for assistance with adult-use cannabis at **(888) SBS-4NYC** | **(888) 727-4692**, or visit nyc-business.nyc.gov/nycbusiness/article/cannabis-nyc
- Contact **NYS OCM** for detailed adult-use cannabis license regulations at **(888) 626-5151** or 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.

CONTACT US

NYC Department of Buildings
Small Business Team

QUESTIONS:
[Small Business Help Form](#)

WEBSITE:
nyc.gov/dob-sbt

