

Pursuant to the authority vested in the Cannabis Control Board by sections 13, 41 and 43 of the Cannabis Law, Subtitle B of Title 9 of the Official Compilation of Codes, Rules and Regulations of the State of New York is hereby amended, and a new Chapter II is added, to be effective upon publication of a Notice of Adoption in the New York State Register, to read as follows:

Chapter II – Rules of the Office of Cannabis Management

Part 115 - Personal Cultivation of Cannabis

§ 115.1 Definitions.

§ 115.2 Personal cultivation of cannabis.

§ 115.3 Cultivation of medical cannabis by certified patients and designated caregivers.

Section 115.1 Definitions.

(a) For purposes of this section, the following definitions shall apply:

(1) “Cultivation” means growing, cloning, harvesting, drying, curing, grinding, and trimming of the cannabis plant.

(2) “Immature cannabis plant” means a non-flowering female cannabis plant or a cannabis plant which does not have buds that may be observed by visual examination.

(3) “Mature cannabis plant” means a female plant that has flowered and that has buds that may be observed by visual examination.

(4) “Person” means a person twenty-one years of age or older.

(5) “Private residence” means any building or part of a building, or structure designed and occupied exclusively for residential purposes, including but not limited to a private home; townhouse; condominium; apartment; or mobile home. For purposes of this Part, a hospital,

hotel, motel, resort, or other similar public accommodation, shall not be considered a private residence, except as may be expressly allowed by the Board.

(6) "Process" or "Processing" means extracting, preparing, treating, modifying, compounding, manufacturing or otherwise manipulating cannabis for use to concentrate or extract its cannabinoids. For purposes of this section, processing does not include growing, cultivation, cloning, harvesting, drying, curing, grinding, or trimming.

Section 115.2 Personal cultivation of cannabis.

(a) The cultivation of cannabis for personal use may only occur in, or on the grounds of, a person's private residence. No individual under the age of 21 may cultivate cannabis for personal use.

(b) No person shall plant, cultivate, harvest, dry, process or possess more than three mature cannabis plants and three immature cannabis plants at any one time.

(c) No more than six mature and six immature cannabis plants may be cultivated, harvested, dried, or possessed within any private residence, or on the grounds of a person's private residence.

(d) No person shall sell or barter any cannabis seeds, immature cannabis plant, mature cannabis plant, or cannabis, produced by a plant cultivated pursuant to this Part, to any other person. This subdivision does not prohibit the transfer, without compensation, to a person twenty-one years of age or older, up to three ounces of cannabis and up to twenty-four grams of concentrated cannabis.

(e) Except as otherwise approved by the Office of Cannabis Management, no person shall process cannabis at home by means of any liquid or gas, other than alcohol, that has a flashpoint below 100 degrees Fahrenheit.

(f) Immature cannabis plants and mature cannabis plants must be stored in a secure location

within a person's private residence or on the grounds of such person's private residence; and reasonable measures must be taken to ensure that such plants, and any cannabis cultivated from such plants, is not readily accessible to anyone under the age of 21. Such reasonable measures include but are not limited to:

(1) conducting cannabis cultivation in an enclosed area, which may not be plainly visible from public view, including from the street of the private residence or grounds of the person's private residence, and in a reasonable manner that prioritizes attempts at mitigating cannabis odor;

(2) installing and maintaining reasonable security device(s); and

(3) locking and storing cannabis in a manner that prevents theft, loss, or access by an unauthorized person.

§ 115.3 Cultivation of medical cannabis by certified patients and designated caregivers.

(a) Certified patients twenty-one years of age or older may cultivate cannabis for personal use pursuant to Section 115.2 of this Part.

(b) Designated caregivers twenty-one years of age or older, caring for a certified patient either younger than twenty-one years of age or whose physical or cognitive impairments prevent them from cultivating cannabis, may cultivate cannabis for use by such patient, provided that no patient may have more than one designated caregiver grow on their behalf.

(c) Designated caregivers growing on behalf of a patient may grow up to six cannabis plants for one certified patient. Should a designated caregiver be designated to grow for more than one certified patient at a time, they may grow no more than one additional cannabis plant for each additional patient.

(d) In addition to the requirements in Section 115.2 of the Part, designated caregivers shall:

(1) keep any cannabis being cultivated for the designated caregiver's certified patient separate from any other cannabis being cultivated, and in a manner that can readily determine to whom such cannabis plants belong;

(2) only receive reimbursement for the actual costs of goods, materials, or utilities for which they have incurred expenses directly related to the cultivation of cannabis for the certified patient, and not receive reimbursement or compensation for their time, knowledge, or expertise;

(3) not sell any cannabis produced by any immature cannabis plant or mature cannabis plant which is or was cultivated for a certified patient, even if the certified patient no longer needs or wants such cannabis; and

(4) only cultivate cannabis at, or on the grounds of, the designated caregiver's private residence or the certified patient's private residence.

(e) No landlord may refuse to lease, or otherwise penalize a certified patient or designated caregiver solely for engaging in medical cannabis activity as authorized by this Part and in accordance with Cannabis Law.