



Summary of NYCU’s Suggested Amendments to OCM’s Revised Proposed Regulations for Personal Home Cultivation of Medical Cannabis

OCM released the first round of proposed regulations in November. Comments for those closed in January. Based on input from those comments, OCM has issued revised proposed regulations, which are open for an additional 45 days of public comment. This is a condensed summary of NYCU's suggested amendments to OCM's Revised Proposed Regulations for Personal Home Cultivation of Medical Cannabis (Part 115) which were published in the NY State Registrar on June 8, 2022 and open for public comment until July 25, 2022.

1. Only plants that can be observed by visual examination as female should be considered immature. (**Amends § 115.1 Definitions - “Immature Cannabis Plant”**)
 - § 115.1 defines “Immature cannabis plant” as a non-flowering female cannabis plant or a plant without visible buds, but it is not possible to visibly observe whether a plant is female or male in advance of flowering.
 - This suggestion is designed to align the regulations with realistic cultivation practices.
2. Only plants that can be observed by visual examination as being ready for harvest should be considered mature. (**Amends § 115.1 Definitions - “Mature Cannabis Plant”**)
 - § 115.1 defines “mature cannabis plant” as a “female plant that has flowered and that has buds,” but the appearance of flowers does not denote maturity for a cannabis plant, which depending on the variety may flower anywhere from six (6) to twelve (12) weeks.
 - This suggestion is designed to align the regulations with realistic cultivation practices.
3. Personal cultivation should be allowed to occur in all areas where the cultivator has legal rights to use the area for their own purposes and that meet the other requirements of this section. (**Amends § 115.1 Definitions - “On the grounds” and § 115.2 Personal**

Home Cultivation of Medical Cannabis as to where personal cultivation can take place)

- § 115.1 and § 115.2 permit cultivation of cannabis “in, or on the grounds of, a person’s private residence,” restricting outdoor cultivation – a less expensive and more sustainable approach compared to indoor cultivation – to only those with private outdoor space.
 - These restrictions unfairly disadvantage those in urban areas and from communities most harmed by prohibition.
 - This suggestion is designed to promote equitable access to outdoor cultivation of medical cannabis.
4. Designated Caregivers should not have to count their legally personally allowable cannabis towards the total allowable number of plants they can grow for Certified Patients. In addition to being able to grow their full legally allotted personal cultivation, Designated Caregivers can grow up to six cannabis plants per Certified Patient, provided that a Caregiver does not grow more than 30 plants at any given time. **(Amends § 115.2 Personal Home Cultivation of Medical Cannabis as to how many plants can be cultivated)**
- § 115.2 states that a Designated Caregiver can group up to six plants per patient and can grow for up to four patients but may only cultivate up to twelve cannabis plants. This places unfair restrictions on patients’ access to their legally allowable medicine.
 - This suggestion is designed to ensure equitable access to cannabis among patients and caregivers and avoid unnecessary impediments that will discourage participation in the legal cannabis industry.
5. Caregivers should not be required to physically separate plants for patients, instead each plant should be clearly marked to indicate to whom the plant belongs. **(Amends § 115.2 Personal Home as to the marking and spacing of plants grown by a Designated Caregiver)**
- § 115.2 requires that a Designated Caregiver “keep any cannabis being cultivated for the designated caregiver’s certified patient separate from any other cannabis being cultivated.” This places an undue burden on patients and caregivers with limited space available for cultivation and is further unnecessary given that plants must already be marked to indicate to whom they belong.
 - This suggestion is designed to ensure equitable access to home cultivation and avoid restrictions that would impede those in need from accessing their medicine.
6. Caregivers should be allowed to recover the costs of resources used **(Amends § 115.2 Personal Home as to the Reimbursement of costs to a Designated Caregiver)**
- § 115.2 states that a Designated Caregiver may “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,” which is not easy or even feasible to calculate in an outdoor cultivation setting.

- This suggestion is designed to remove impediments that would discourage outdoor cultivation, and ensure that Caregivers who cultivate outdoors are fairly compensated.
7. Caregivers should be allowed to cultivate cannabis in all areas where they have legal rights to use the area for their own purposes and that meet the other requirements of this section. **(Amends § 115.2 Personal Home as to the where a Designated Caregiver can cultivate)**
- For the same reasons stated above, restricting cultivation to the grounds of a private residence unfairly disadvantages those without access to private outdoor space, which includes most people living in an urban setting, and will again disproportionately affect those communities harmed by prohibition.
 - This suggestion is designed to promote equitable access to outdoor cultivation of medical cannabis.
8. Consumers should be allowed to purchase directly from micro-licensed farms. Labeling on packaging should be allowed to utilize QR codes and other technologies so as to limit the amount of packaging, plastic, and paper used in the cannabis industry. **(Addition to § 115.3 Sale of Medical Cannabis for Home Cultivation).**
- **§ 115** does not restrict or limit where seeds, plants, and/or clones may be obtained for the purpose of personal home cultivation. The additions we’ve provided are intended to (1) further facilitate opportunities to purchase/sell cannabis for home cultivation and (2) reduce the environmental impact of cannabis sales.