



Office of Cannabis Management
Adult-Use Conditional Cultivator License
Frequently Asked Questions

Updated: September 1, 2022

On February 22, 2022, Governor Kathy Hochul signed into law [S.8084-A/A.9283-A](#), creating a new Adult-Use Conditional Cultivator License, authorizing eligible hemp growers to apply for a license to grow cannabis containing over 0.3% THC for the adult-use cannabis market. To be eligible for licensure, the hemp grower must have been authorized to grow hemp under the Department of Agriculture and Markets Industrial Hemp Research Pilot Program and meet certain other requirements. The Conditional Cultivator program puts New York farmers first, jumpstarting the New York Cannabis Industry and the Cannabis Law’s focus on social and economic equity. [On March 10, 2022](#) the Cannabis Control Board (Board) approved the application and opening of the application window for Conditional Cultivators beginning March 15, 2022 and remaining open until June 30, 2022. Please be aware that the Office of Cannabis Management (Office) is diligently working on the roll-out of additional license opportunities for the broader market and expects to share more information soon.

Please read the FAQs below for additional information and if your question is not answered here, e-mail licensing@ocm.ny.gov or call 1-888-OCM-5151 (1-888-626-5151).

Adult-Use Conditional Cultivator License and Application Questions

1. Who is Eligible to Apply for an Adult-Use Conditional Cultivator License?

To be eligible for an Adult-Use Conditional Cultivator License an applicant must meet **all** the requirements below. An applicant must:

1. Have been authorized to grow hemp under the Department of Agriculture and Markets Industrial Hemp Research Pilot Program.
2. Be in good standing with the Department of Agriculture and Markets.
3. Have been authorized by Department of Agriculture and Markets to grow cannabinoid or “CBD hemp” as opposed to growing hemp for grain or fiber.
4. Have grown and harvested cannabinoid or “CBD hemp” for two of the past four years (between 2018 - 2021) and be able to provide the Office with proof documenting such activities.
5. Hold at least a 51% or more ownership in the entity that held the industrial hemp grower authorization from Department of Agriculture and Markets.



Interested applicants should begin to assemble proof of the eligibility requirements listed above. The Conditional Cultivator application window will open on March 15, 2022 and close on June 30, 2022. A link to the application is available on the program website at: <https://cannabis.ny.gov/licensing>.

2. When can I Apply for the Adult-Use Conditional Cultivator License?

At the [March 10, Cannabis Control Board \(Board\) meeting](#), the Board approved the opening of the application window for Adult-Use Conditional Cultivators licenses beginning on March 15, 2022 and remaining open until June 30, 2022.

3. Where do I Apply for the Adult-Use Conditional Cultivator License?

A link to the Adult-Use Conditional Cultivator license is available on the Office’s website at: <https://cannabis.ny.gov/licensing>. The Office uses the New York State Business Express platform for application submission and processing. Applicants will need to create a New York State Business Express account in order to apply.

4. Do All Applications Need to be Submitted Online?

Yes, all applications need to be submitted online through the New York State Business Express platform. There are no paper based applications for the Conditional Cultivator license.

5. What Application Materials will be Needed to Apply?

Eligible Applicants will need to provide the following information:

- Primary contact information
- Primary address and business location
- Description of the Applicant’s business plan
- Applicant ownership and financial disclosure information including submission of organizational structure documents, organizational charts, capitalization tables and disclosures of any sources or proposed sources of capital
- Documentation proving the applicant was authorized to cultivate cannabinoid hemp or “CBD hemp” by the Department of Agriculture & Markets
- Documentation proving the applicant grew and harvested hemp for two out of the past four years
- A cultivation and site plan for each proposed location to grow, harvest, dry, store or handle cannabis including the submission of floor plans, diagrams, GPS coordinates and an aerial photograph of the premise



- Applicant attestation and agreement of the conditional licenses Terms and Conditions
- Submission of a non-refundable \$2,000 license and application fee

6. Is there an Application or Licensing Fee for the License?

As part of the application, Adult-Use Conditional Cultivator applicants will have to pay a non-refundable \$2,000 application and licensing fee. Both the application and licensing fee will be due upon application submission and must be received for the application submission to be complete and for the application to be reviewed by the Office.

7. How do I Pay the Application and License Fee?

The application and license fee payment must be submitted by check and be mailed to the Office at:

Attn: Licensing Division
New York State Office of Cannabis Management
P.O. Box 2071
Albany, NY 12220.

8. What is the Expected Processing Time for an Application?

The Office expects application review to take 3-8 weeks. After the Office reviews and processes your application, it will be then be presented to the Cannabis Control Board (Board) for final approval. As a reminder, you may only officially begin the cultivation of adult-use cannabis upon final license approval from the Board.

9. How Long is the Adult-Use Conditional Cultivator License Valid?

The Adult-Use Conditional Cultivator License is valid for up to two years from the date of issuance of the license. All Adult-Use Conditional Cultivator become invalid after June 30, 2024.

10. What is the process for changing the name and entity type of a Conditional Adult-Use Cultivator Licensee who wants to change the entity that is the licensee to a new entity with the same ownership, control, profit-sharing, etc.? For example, if the licensed entity was named Hemp Entity LLC, with three members (Sue, Bob, and Beth), and that entity received a Conditional Adult-Use Cultivator License, but the members want to create a new entity, named Cannabis Entity LLC, with the same members, control arrangements, and profit-sharing, to hold the Conditional Adult-Use License, is that allowed?



Pursuant to Section 68-c(14) of the Cannabis Law, OCM defines “amend the ownership or organizational structure of the entity that is the licensee” (Cannabis Law Sections 67(2) & 68-c(7)) to mean, in situations where the fundamentals of the ownership of a Conditional Adult-Use Cultivator Licensee are not changing (including, but not limited to, profit-sharing, control, and “quantity” of ownership), but the name/entity form changes, OCM may make those changes. A licensee should contact OCM at licensing@ocm.ny.gov to discuss the steps required to change the licensee’s entity type where the fundamentals of ownership (including, but not limited to, control, profit-sharing, and ownership “quantity”) will not be changing.

11. When completing the Conditional Adult-Use Cultivator License on the application portal, we had the wrong person* from our business sign it. Do we have to do an entirely new application?

No. The correct person simply needs to sign the Conditional Adult-Use Cultivator Terms & Conditions document and provide it to OCM. Pursuant to Section 68-c(14) of the Cannabis Law, OCM defines “all license applications shall be signed” (Cannabis Law Section 62(3)) to mean that having the required person sign the Terms and Conditions document satisfies the application-signing requirements of the Cannabis Law.



Conditional Cultivator Programmatic Questions

1. What Makes this License Conditional?

The Adult-Use Conditional Cultivator License is a temporary license which is valid for up to two years. At the end of that period, if the licensee is found to be in good standing with the Office, the licensee can apply for and receive a standard Adult-Use Cultivator license. Additionally, the licensure is conditioned on the applicant meeting the program eligibility criteria stated above, and maintaining compliance with the program's rules, regulations, guidance, and Terms and Conditions.

2. What are the Terms and Conditions?

The Terms and Conditions of the Adult-Use Conditional Cultivator License introduce basic program elements, such as ownership limits, sustainability expectations, labor-peace agreement requirements, and equity mentorship participation which is mandated by the law. The Office will be issuing additional program information and guidance soon.

Applicants and licensees must comply with rules and standards set by the Office, including those in the Terms and Conditions and any current and future state guidance, laws, and regulations. For example, Conditional Licensees agree to inspections by the Office in accordance with the Cannabis Law.

By not meeting the requirements of the conditional license, including complying with the Terms and Conditions and all associated state regulations, laws, and guidance, licensees may lose both their conditional license and the ability to participate in any future licensing opportunities offered from the Office.

3. What Activities Does an Adult-Use Conditional Cultivator License Permit?

An Adult-Use Conditional Cultivator License authorizes cannabis cultivation outdoors or in a greenhouse for up to two years from the date of issuance of the license. An Adult-Use Conditional Cultivator License also permits the licensee to manufacture and distribute cannabis flower products without holding an Adult-Use Processor or Distributor License, until June 1, 2023. The Office will be issuing additional guidance related to the manufacture and distribution of cannabis flower products for Adult-Use Conditional Cultivators. Be aware, an Adult-Use Conditional Cultivator is not permitted to perform extraction of cannabis without holding an Adult-Use Processor License.



4. What Happens to a Conditional Cultivator’s Processing and Distribution Capabilities After June 1, 2023?

Following June 1, 2023, any Adult-Use Conditional Cultivator licensee seeking to manufacture and distribute cannabis flower products will be required to apply for and receive a separate processor and distributor license authorizing such activities. Pursuant to the Cannabis Law, a separate license is required for each activity.

5. How Much Flowering Canopy Does an Adult-Use Conditional Cultivator License Permit?

An Adult-Use Conditional Cultivator licensee may cultivate up to 43,560 square feet (equal to 1 acre) of flowering canopy outdoors or 25,000 square feet of flowering canopy in a greenhouse. A cultivator may grow both outdoors, and in a greenhouse, provided the flowering canopy in a greenhouse is equal to or less than 20,000 square feet, and the total flowering canopy is equal to or less than 30,000 square feet. As part of the application process, Adult-Use Conditional Cultivators will have to submit to the Office a detailed site plan for each area where they plan to grow cannabis.

6. Can an Adult-Use Conditional Cultivator Licensee Use Artificial Lighting During the Cultivation of Cannabis?

Yes. An Adult-Use Conditional Cultivator licensee may use up to twenty (20) artificial lights during the cultivation of cannabis. The Office will be issuing guidance related to the type of lights a conditional cultivator may use to ensure sustainability metrics can be achieved. Please continue to monitor cannabis.ny.gov/licensing for updated program guidance.

7. What Happens After an Adult-Use Conditional Cultivator License Expires?

An Adult-Use Conditional Cultivator License expires no later than two years after the date of issuance. Licensees who are found to be in good standing will be eligible to apply for and receive an Adult-Use Cultivation License. A licensee who transitions to the standard Adult-Use Cultivation License will be permitted a flowering canopy size equal to or greater than the canopy size authorized under the Adult-Use Conditional Cultivator License, pursuant to any additional requirements as defined by the Office. All Adult-Use Conditional Cultivator become invalid after June 30, 2024.



9. Can an Adult-Use Conditional Cultivator Licensee Own for Other License Types While in Possession of a Conditional License?

No. An Adult-Use Conditional Cultivator licensee may only own one license permitting the cultivation of adult-use cannabis. License ownership restrictions in the Cannabis Law prohibit Adult-Use Cultivator licensees from having any direct or indirect interest in any retail-type of license such as a dispensary or an on-site consumption license.

10. Is an Adult-Use Conditional Cultivator Licensee Required to Grow Adult-Use Cannabis in the Same Location as Where They Grew Their Hemp?

No. Cultivators do not need to locate their cannabis grows in the same location at their previous cannabinoid hemp or “CBD hemp” grow. However, Adult-Use Conditional Cultivator licensees may only cultivate cannabis within the same or an adjacent county in which the licensee had previously been authorized to grow hemp under the Department of Agriculture and Markets Research Pilot Program.

Conditional Cultivators must keep all areas used for adult-use cannabis operations, including any growing, harvesting, drying or storage areas **separate and distinct** from any area designated for hemp cultivation under the Department of Agriculture and Markets Hemp License Program. Applicants are encouraged to seek legal advice related to their participation in the Adult-Use Cannabis Program.

11. I Received a Letter Stating my Application is Complete and the Office has Determined I Meet the Program Eligibility Requirements. Can I Start Cultivating?

No. A Conditional Cultivator cannot begin the cultivation of adult-use cannabis until they have been approved for a license by the Cannabis Control Board and have received their license from the Office.

12. Is there Additional Program Guidance Available?

Yes. Program guidance is available on the Office’s website at cannabis.ny.gov/licensing. Please continue to monitor the Office’s website at that link for any changes to program guidance.

13. Are Pre-Rolls Considered Cannabis Flower Products?

Yes. The minimal processing of cannabis flower products is permitted for Conditional Cultivators until June 1, 2023. After that date, a Processor license will be needed to continue such activities.

14. Can a Conditional Cultivator sell their harvested cannabis (wet/freshly harvested or dried and cured) to another Conditional Cultivator for further processing?

Yes, pursuant to Cannabis Law Section 68-c(14), OCM defines “duly licensed processors” (Cannabis Law Section 68(1)) to include Conditional Adult-Use Cultivators who are engaging in minimal processing pursuant to Cannabis Law Section 68-c(6), such that a Conditional Cultivator may sell harvested cannabis (both wet or dried) to a duly licensed Conditional Cultivator for further minimal processing of cannabis flower products.

The sale of cannabis (including wet or dried cannabis, seeds, clones, and seedlings) between Conditional Cultivators must be documented and tracked between the Conditional Cultivators on-premises traceability system that allows the cannabis product to be traced back to the licensee and specific production site, to the block and bed level, and traced forward up the supply-chain to the next distribution point.

Note, however, that a Conditional Cultivator's ability to minimally process cannabis flower products expires on June 30, 2023. After that time, a processor license will be required to process cannabis products pursuant to the Cannabis Law. When transporting cannabis, a Conditional Cultivator must follow all requirements as set forth in the [Guidance](#) and any future rules, regulations or guidance issued by the Office.

15. Can a Conditional Cultivator sell seeds, clones, or seedlings to another Conditional Cultivator?

Yes, pursuant to Cannabis Law Section 68-c(14), OCM defines the authority of a Conditional Cultivator under Cannabis Law Section 68-c(1) to authorize a Conditional Cultivator to sell seeds, clones, or seedlings to a duly licensed Conditional Cultivator for the cultivation of adult-use cannabis.

The sale of cannabis (including seeds, clones, and seedlings) between Conditional Cultivators must be documented and tracked between the Conditional Cultivators on-premises traceability system that allows the cannabis product to be traced back to the licensee and specific production site, to the block and bed level, and traced forward up the supply-chain to the next distribution point.

When transporting cannabis including seeds, clones, and seedlings, a Conditional Cultivator must follow all requirements as set forth in the [Guidance](#), and any future rules, regulations, or guidance issued by the Office.

16. I own an entity with an Adult-Use Conditional Cultivators (AUCC) and Adult-Use Conditional Processor (AUCP) license. Am I allowed to process biomass harvested by other duly-licensed AUCC using my AUCP license?



Yes. An AUCP licensee can process both (a) the cannabis that was cultivated pursuant to its own AUCC license and (b) cannabis that is cultivated by other duly-licensed AUCC. However, licensees should be cautious when entering into agreements to be sure they will not result in a violation of any True Party of Interest rules. More information about True Parties of Interest for AUCCs and AUCPs can be found at: [Adult-Use Conditional Cultivator True Parties of Interest FAQ](#).

17. Do any adult-use cannabis taxes or tax registration and remitting requirements apply to Conditional Cultivators?

It depends. Pursuant to the Cannabis Law, Conditional Cultivators are authorized to minimally process and distribute cannabis flower products. If Conditional Cultivators act as distributors, they will be required to register with the Department of Taxation and Finance to collect and remit the per milligram total THC tax imposed on the sale of cannabis products from a distributor to a licensee who sells adult-use cannabis products at retail. The Office will be reaching out to each licensed Conditional Cultivator to notify them of this tax registration requirement if they indicate they will be distributing cannabis flower products. Please note, the Adult-Use Cannabis Tax Registration system at the Department of Taxation and Finance is not yet available but is expected to launch in the next several months.

If a Conditional Cultivator does not distribute cannabis flower products, there is no tax registration requirement. For more information on adult-use cannabis taxes, please see this [Fact Sheet](#).

18. What is a labor peace agreement and when must a conditional cultivator licensee complete one?

A labor peace agreement (LPA) is an agreement entered into between an employer and a union pursuant to which the employer agrees not to oppose unionization and the union (who is attempting to organize the workforce) agrees to not strike or otherwise stop work. An LPA is not a collective bargaining agreement (union contract). New York’s law defines LPAs as an agreement between an entity and a labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the entity.

Conditional Cultivators must enter into an LPA with a bona fide labor organization within six months of licensure and submit the agreement to the Office. For purposes of this requirement, a “bona fide labor organization” is defined as a labor union: (1) That represents employees in this state with regard to wages, hours and working conditions; (2) In which officers have been elected by secret ballot or otherwise in a manner consistent with federal law, and; (3) That is free of domination or interference by any employer and has received no improper assistance or support



from any employer. The New York State School of Industrial and Labor Relations provides some information about LPAs at the following link:

<https://www.cannabisworkforce.org/cannabis-labor-peace-agreement>

19. How does a Conditional Cultivator participate in the equity mentorship program?

Conditional Cultivators must participate in a social and economic equity mentorship program aimed at creating pathways for individuals from communities disproportionately harmed by the prohibition of cannabis into New York’s Cannabis Industry. The Office is working with a range of partners, including Conditional Cultivators, to achieve this goal through the development of a mentorship program focused on compliance and sustainable cultivation education as well as exposure to Conditional Cultivators and their businesses. Conditional Cultivator licensees are required to complete and submit an equity mentorship response survey, indicating their mentorship capabilities and any specializations. Further information related to the equity mentorship program will become available during the summer of 2022.



Conditional Cultivator Ownership Questions

1. If I am a Sole Proprietor do I Need to Submit a Capitalization Table?

Yes, all applicants, even if a sole proprietor, must upload a capitalization table listing all individuals who have an ownership stake in the entity at any level, type, or portion of ownership, equity, or profit interest. Applicants may upload this information in a chart listing the first name, last name, type of interest and percent of interest in the entity.

2. Can I Operate My Conditional Cultivator License in the Same Location as My Hemp License From the Department of Agriculture and Markets?

Conditional Cultivators must keep all areas used for adult-use cannabis operations, including any growing, harvesting, drying or storage areas separate and distinct from any areas designated for hemp cultivation under the Department of Agriculture and Markets Hemp Licensing Program. For example, if a farmer had conventional and organic operations on their farm, the areas would need to be separated by protective buffers clearly delineating what is used for organic operations and what is used for conventional operations.

3. I Own the Facility Where I Plan to Conduct Conditional Cultivator Operations, but the Ownership Is Under A Different Entity With the Same Ownership Structure. For the Purposes of the Application, Do I Select That I Own or Lease the Facility?

If the applicant has a lease or another type of agreement to use the facility, then select “leased” on the application. If the applicant owns the location, even if under a different entity, select “owned”. Please be aware, the Office may ask for additional documentation for all real property, building, and facility ownership information and agreements for all Conditional Cultivator applicants and licensees.

4. The Conditional Cultivator Application Asks for Applicants to Upload A Copy of the Applicant’s Capitalization Table or Ownership Chart Showing 100% Ownership of the Applicant Entity, Including Any And All Ownership Of All Parent Companies. Additionally, the Ownership Information Must Be Provided Going Back to An Individual(s), Regardless of Whether the Individual Is A Responsible Party of the Applicant Entity or Parent Companies. How Does the Office Want This Information Shared? Is There A Threshold Based on The Percentage of Equity or Profits Interest Requiring Disclosure?

Applicants must disclose all individuals who have an ownership stake in the entity at any level, type, or portion of ownership, equity, or profit interest. Applicants may upload this information in a chart listing the first name, last name, type of interest and percent of interest in the entity. If the applicant is a publicly traded company where the disclosure of all individual ownership interests would be administratively burdensome, please reach out to licensing@ocm.ny.gov for



assistance. Please be aware, the Office may ask for additional documentation of the applicant's or licensee's ownership interest, structure, and source of funds to maintain compliance with the Cannabis Law and any future rules, regulations, or guidance.

5. If I Own A Conditional Cultivator License, Can I Own an Interest in Any Other Adult-Use Cannabis License?

The Cannabis Law includes provisions limiting a person's interest across or in multiple different license types. For Conditional Cultivator's, no person may have a direct or indirect financial or controlling interest in more than one adult-use cultivator license. Additionally, Conditional Cultivators, are restricted from having any interest, either directly or indirectly in any premises where any cannabis product is sold at retail, including for on-site consumption or delivery licenses. The Office intends on issuing additional rules, regulations or guidance related to ownership limits and applicants should be aware that owning an interest in another licensee may not be permitted.

6. The Conditional Cultivator License Is Valid for Up to Two Years. If Licensed, Do I Have to Stay as A Conditional Cultivator for The Full Two Years Or Can I Apply For The Non-Conditional Adult-Use Cultivator License When Those Applications Become Available?

The Conditional Cultivator license is valid for up to two years. Licensees who are found to be in good standing will be eligible to apply for and receive an Adult-Use Cultivation License at the end of the conditional period. A licensee is not obligated to hold this license for the duration of the license term and can surrender the license to the Office in writing at least thirty days prior to the anticipated date of closure. The written notice must include a plan for closure which is subject to Office approval and must include timetables and describe procedures and actions the licensee will take to properly destroy or dispose of all the licensee's supply of cannabis or cannabis products. Thereafter, a former licensee may apply for another adult-use license type. Such application will not be treated, however, as an application to transition from a Conditional Cultivator license to an Adult-Use Cultivator License.

7. Will the Office Allow Conditional Cultivators to Change Their Ownership Structure During the Conditional Licensure Period?

Any proposed change in ownership or organizational structure of the licensee must be submitted to the Office for review prior to the transaction taking place, and any change affecting ownership or control of the entity must receive prior written approval of the Cannabis Control Board before becoming effective. The Conditional Cultivator license is only available to applicants who previously held authorization to grow hemp under the Department of Agriculture and Markets Industrial Hemp Research Pilot Program and met certain other requirements. Because of this, at least 51% of the ownership and control of the operations of the licensee must be held by a previously authorized Department of Agriculture and Markets industrial hemp grower.



8. Can Conditional Cultivators Share A Facility or Address with Other Conditional Cultivators? Further, It Unclear Is Whether Licensees May Lease or Rent Facilities, Land, And Greenhouses to Other Licensees Due to Prohibitions in The MRTA on “Direct or Indirect Interest”.

Conditional Cultivators may share a facility or address with other Conditional Cultivators. No more than four (4) Conditional Cultivators may be permitted to locate at the same facility or address and all growing operations must be partitioned and easily identified for each licensee. All agreements related to the sharing of facilities and equipment must be disclosed to the Office for review and approval. A Conditional Cultivator is permitted to rent space, land or greenhouses to another Conditional Cultivator as part of a lease agreement, but a Conditional Cultivator is prohibited from holding an interest in more than one Conditional Cultivator license. The Office intends on issuing additional rules and regulations or guidance related to rental, management, or share services, and other agreements.



General Questions

1. Is the Office Licensing Adult-Use Conditional Processors?

The law creates an Adult-Use Conditional Processor license, authorizing eligible cannabinoid hemp processors to apply for a license to process and manufacture products containing over 0.3% THC for the upcoming adult-use market. To be eligible to apply, a hemp processor must hold an active Cannabinoid Hemp Processor License issued by the Office and meet certain other requirements. More information will be available regarding Adult-Use Conditional Processors soon.

2. Where Can I Find the Text of the Conditional Cultivator and Processor Law?

For the text of the law, click this link: <https://www.nysenate.gov/legislation/bills/2021/s8084>.

3. How do I Contact the Office of Cannabis Management?

If you have a question that is not answered here, please contact the Office by e-mail at licensing@ocm.ny.gov or by phone at 1-888-OCM-5151 (1-888-626-5151).