



**MEMORANDUM**

TO: Mayor Jones and Members of the Board

FROM: Karen Proctor, Town Administrator

DATE: January 6, 2022

RE: Draft Ordinance Adding a New Article 6 of Chapter 6 Regarding Marijuana Delivery Within the Town

**DISCUSSION:**

Attached for Board discussion is a draft Ordinance to add a new Article 6 to Chapter 6 of the Foxfield Municipal Code regarding Marijuana delivery within the Town of Foxfield.

Under a law passed in 2019, and effective January 1, 2020, if the Town would like to allow medical and recreational marijuana businesses to deliver their products to customers in the Town, the best practice is to enact an Ordinance specifically allowing such practice. If the Town does allow it, we will receive the sales tax paid on deliveries within the Town.

In addition to the draft Ordinance, attached is the language from the Colorado Revised Statutes regarding both medical marijuana delivery (C.R.S. § 44-10-501(11)), and retail marijuana delivery (C.R.S. § 44-10-601(13)). In addition, the Marijuana Enforcement Division (MED) has adopted rules regarding delivery, which are also attached.

**ATTACHMENT:**

Exhibit A: Draft Ordinance 2022-01  
Exhibit B: Medical Marijuana Delivery Statute  
Exhibit C: Retail Marijuana Delivery Statute  
Exhibit D: MED Rules re Delivery of Marijuana

Trustee Bill No.  
Series of 2022  
Town of Foxfield

Introduced by

**A BILL FOR AN ORDINANCE ADDING A NEW ARTICLE 6 OF CHAPTER 6  
REGARDING MARIJUANA DELIVERY WITHIN THE TOWN**

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF  
FOXFIELD, COLORADO:

Section 1. The Town of Foxfield Municipal Code is amended by the addition thereto of a  
new Article 6 of Chapter 6 to read as follows:

**ARTICLE 6**

**Marijuana Delivery**

**Sec. 6-6-10. Delivery of Medical Marijuana.**

(a) The Board of Trustees hereby authorizes the Town Clerk to  
administratively approve the issuance of a medical marijuana delivery permit to  
any licensed medical marijuana business. The permitting procedure shall comply  
with C.R.S. § 44-10-501(11).

(b) All deliveries made within the Town shall comply with C.R.S. § 44-  
10-501(11) and 1 CCR 212-3.

(c) All medical marijuana and medical marijuana infused products  
delivered to an address within the Town are subject to Town sales tax.

**Sec. 6-6-20. Delivery of Retail Marijuana.**

(a) The Board of Trustees hereby authorizes the Town Clerk to  
administratively approve the issuance of a retail marijuana delivery permit to any  
licensed retail marijuana store and licensed retail marijuana transporter. The  
permitting procedure shall comply with C.R.S. § 44-10-601(13).

(b) All deliveries made within the Town shall comply with C.R.S. § 44-  
10-601(13) and 1 CCR 212-3.

(c) All retail marijuana and retail marijuana infused products delivered  
to an address within the Town are subject to Town sales tax.

Section 2. The Town Board of Trustees hereby finds, determines, and declares that this Ordinance is promulgated under the general police powers of the Town of Foxfield, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare.

Section 3. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. This ordinance shall become effective thirty (30) days after final publication.

Adopted as Ordinance No. 02 Series of 2022, by the Board of Trustees of Foxfield, Colorado, and signed and approved by its Mayor or presiding officers this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Lisa Jones, Mayor

ATTEST:

\_\_\_\_\_  
Julie St-Pierre, Town Clerk

Town Seal

\_\_\_\_\_  
Corey Y. Hoffmann, Town Attorney  
(Approved as to Form)

Medical**Colo. Rev. Stat. § 44-10-501**

Section 44-10-501 - [Effective 1/1/2022] Medical marijuana store license

**(1)**

**(a)** A medical marijuana store license may be issued only to a person selling medical marijuana pursuant to the terms and conditions of this article 10.

**(b)**

**(I)** The medical marijuana store shall track all of its medical marijuana and medical marijuana products from the point that they are transferred from a medical marijuana cultivation facility or medical marijuana products manufacturer to the point of sale. When completing a patient sales transaction, the medical marijuana store shall immediately record each sales transaction in the seed-to-sale inventory tracking system in order to allow the seed-to-sale inventory tracking system to:

**(A)** Continuously monitor entry of patient data to identify discrepancies with daily authorized quantity limits and THC potency authorizations;

**(B)** Access and retrieve real-time sales data based on patient identification number; and

**(C)** Respond with a user error message if a sale to a patient or caregiver will exceed the patient's daily authorized quantity limit for that business day or THC potency authorization.

**(II)** In the event of a temporary outage of the seed-to-sale tracking system, a medical marijuana store may rely upon the physician's certification required by section 25-1.5-106, and is not responsible for any unintentional sale in excess of the authorized quantity limit that occurs during the outage, provided however that the medical marijuana store uploads its sales data into the seed-to-sale tracking system as soon as reasonably practical after the end of the outage.

**(III)** The data collected pursuant to this subsection (1)(b), including any personal identifying patient information, is subject to the confidentiality requirements of section 44-10-204.

**(2)**

**(a)** Notwithstanding the provisions of this section, a medical marijuana store licensee may also sell medical marijuana products that are prepackaged and labeled so as to clearly indicate all of the following:

**(I)** That the product contains medical marijuana;

**(II)** That the product is manufactured without any regulatory oversight for health, safety, or efficacy; and

physician's record-keeping system for the patient and shall provide written documentation to the patient to allow a medical marijuana store to verify the exemption. The written documentation of the exemption provided to a patient must, at a minimum, include the patient's name and registry number, the physician's name, valid license number, physical business address, any electronic mailing address, and phone number. The state health agency may require a physician providing an exemption to the sales limitation to document the exemption in the medical marijuana registry.

**(III)**

**(A)** A medical marijuana store or medical marijuana stores shall not sell any more than eight grams of medical marijuana concentrate to a patient in a single day; except that this subsection (10)(b) does not apply if the patient is homebound, if the physician's certification specifically states that the patient needs more than eight grams of medical marijuana concentrate, if it would be a significant physical or geographic hardship for the patient to make a daily purchase, or if the patient had a registry identification card prior to eighteen years of age.

**(B)** Notwithstanding the provisions of subsection (10)(b)(III)(A) of this section, if the patient is eighteen to twenty years of age a medical marijuana store or medical marijuana stores shall not sell any more than two grams of medical marijuana concentrate to a patient in a single day; except that this subsection (10)(b) does not apply if the patient is homebound, if the physician's certification specifically states the patient needs more than two grams of medical marijuana concentrate, or if it would be a significant physical or geographic hardship for the patient to make a daily purchase, or if the patient had a registry identification card prior to eighteen years of age.

**(c)** The state licensing authority may promulgate rules to establish certain exemptions to the medical marijuana concentrate or medical marijuana products sales limitation and may establish record-keeping requirements for medical marijuana stores engaging in sales transactions pursuant to any exemption to the sales limitation. When establishing any exemptions, the state licensing authority shall consult with members of the medical marijuana patient community and physicians making medical marijuana recommendations pursuant to section 14 of article XVIII of the state constitution and article 1.5 of title 25.

**(d)** A medical marijuana store shall not engage in sales transactions to the same patient during the same business day when the medical marijuana store or its employee knows or reasonably should have known that the sales transaction would result in the patient possessing more than the sales limitation established by subsection (10)(a) of this section.

**(11)**

**(a)**

**(I)** There is authorized a medical marijuana delivery permit to a medical marijuana store license authorizing the permit holder to deliver medical marijuana and medical marijuana products.

**(II)** A medical marijuana delivery permit is valid for one year and may be renewed annually upon renewal of the medical marijuana store license.

**(III)** A medical marijuana delivery permit issued pursuant to this section applies to only one medical marijuana store; except that a single medical marijuana delivery permit may apply to multiple medical marijuana stores provided that the medical marijuana stores are in the same local jurisdiction and are identically owned, as defined by the state licensing authority for purposes of this section.

**(IV)** The state licensing authority may issue a medical marijuana delivery permit to a qualified applicant, as determined by the state licensing authority, that holds a medical marijuana store license issued pursuant to this article 10. The state licensing authority has discretion in determining whether an applicant is qualified to receive a medical marijuana delivery permit. A medical marijuana delivery permit issued by the state licensing authority is deemed a revocable privilege of a licensed medical marijuana store. A violation related to a medical marijuana delivery permit is grounds for a fine or suspension or revocation of the delivery permit or medical marijuana store license.

**(b)** A medical marijuana store licensee shall not make deliveries of medical marijuana or medical marijuana products to patients or parents or guardians while also transporting medical marijuana or medical marijuana products between licensed premises in the same vehicle.

**(c)** A licensed medical marijuana store shall charge a one-dollar surcharge on each delivery. The licensed medical marijuana store shall remit the surcharges collected on a monthly basis to the municipality where the licensed medical marijuana store is located, or to the county if the licensed medical marijuana store is in an unincorporated area, for local law enforcement costs related to marijuana enforcement. Failure to comply with this subsection (11)(c) may result in nonrenewal of the medical marijuana delivery permit.

**(d)** A licensed medical marijuana store with a medical marijuana delivery permit may deliver medical marijuana and medical marijuana products only to the patient or parent or guardian who placed the order and who:

**(I)** Is a current registrant of the medical marijuana patient registry and is twenty-one years of age or older or the parent or guardian of a patient who is also the patient's primary caregiver;

**(II)** Receives the delivery of medical marijuana or medical marijuana products pursuant to rules; and

**(III)** Possesses an acceptable form of identification.

**(e)** Any person delivering medical marijuana or medical marijuana products must possess a valid occupational license and be a current employee of the licensed medical marijuana store or medical marijuana transporter licensee with a valid medical marijuana delivery permit; must have undergone training regarding proof-of-age identification and verification, including all forms of identification that are deemed acceptable by the state licensing authority; and must have any other training required by the state licensing authority.

**(f)** In accordance with this subsection (11) and rules adopted to implement this subsection (11), a licensed medical marijuana store with a valid medical marijuana delivery permit may:

**(I)** Receive an order by electronic or other means from a patient or the parent or guardian for the purchase and delivery of medical marijuana or medical marijuana products. When using an online platform for marijuana delivery, the platform must require the patient or parent or guardian to choose a medical marijuana store before viewing the price.

**(II)** Deliver medical marijuana and medical marijuana products not in excess of the amounts established by the state licensing authority;

**(III)** Deliver only to a patient or a parent or guardian at the address provided in the order;

**(IV)** Deliver no more than once per day to the same patient or parent or guardian or residence;

**(V)**

**(A)** Deliver only to private residences.

**(B)** For purposes of this section, "private residences" means private premises where a person lives, such as a private dwelling place or place of habitation, and specifically excludes any premises located at a school or on the campus of an institution of higher education, or any other public property.

**(VI)** Deliver medical marijuana or medical marijuana products only by a motor vehicle that complies with this section and the rules promulgated pursuant to this section and section 44-10-203(2)(dd); and

**(VII)** Use an employee to conduct deliveries, or contract with a medical marijuana transporter that has a valid medical marijuana delivery permit to conduct deliveries on its behalf, from its medical marijuana store or its associated state licensing authority-authorized storage facility as defined by rule.

**(g)**

**(I)** At the time of the order, the medical marijuana store shall require the patient or parent or guardian to provide information necessary to verify the patient is qualified to purchase and receive a delivery of medical marijuana and medical marijuana products pursuant to this section. The provided information must, at a minimum, include the following:

**(A)** The patient's name and date of birth;

**(B)** The registration number reflected on the patient's registry identification card issued pursuant to section 25-1.5-106;

**(C)** If the patient is under eighteen years of age, the name and date of birth of the parent or guardian designated as the patient's primary caregiver and, if applicable, the

registration number of the primary caregiver;

(D) The address of the residence where the order will be delivered; and

(E) Any other information required by state licensing authority rule.

(II) Prior to transferring possession of the order to a patient or a parent or guardian, the person delivering the order shall inspect the patient's or parent's or guardian's identification and registry identification card issued pursuant to section 25-1.5-106, verify the possession of a valid registry identification card issued pursuant to section 25-1.5-106, and verify that the information provided at the time of the order matches the name and age on the patient's or parent's or guardian's identification.

(h)

(I) Unless otherwise provided by the state licensing authority by rules promulgated pursuant to this article 10, all requirements applicable to other licenses issued pursuant to this article 10 apply to the delivery of medical marijuana and medical marijuana products, including but not limited to inventory tracking, transportation, and packaging and labeling requirements.

(II) The advertising regulations and prohibitions adopted pursuant to section 44-10-203(3)(a) apply to medical marijuana delivery operations pursuant to this subsection (11).

(i) It is not a violation of any provision of state, civil, or criminal law for a licensed medical marijuana store or medical marijuana transporter licensee with a valid medical marijuana delivery permit, or such person who has made timely and sufficient application for the renewal of the permit, or its licensees to possess, transport, and deliver medical marijuana and medical marijuana products pursuant to a medical marijuana delivery permit in amounts that do not exceed amounts established by the state licensing authority.

(j) A local law enforcement agency may request state licensing authority reports, including complaints, investigative actions, and final agency action orders, related to criminal activity materially related to medical marijuana delivery in the law enforcement agency's jurisdiction, and the state licensing authority shall promptly provide any reports in its possession for the law enforcement agency's jurisdiction.

(k)

(I) Notwithstanding any provisions of this section, delivery of medical marijuana or medical marijuana products is not permitted in any municipality, county, or city and county unless the municipality, county, or city and county, by either a majority of the registered electors of the municipality, county, or city and county voting at a regular election or special election called in accordance with the "Colorado Municipal Election Code of 1965", article 10 of title 31, or the "Uniform Election Code of 1992", articles 1 to 13 of title 1, as applicable, or a majority of the members of the governing board for the municipality, county, or city and county, vote to allow the delivery of medical marijuana or medical marijuana products pursuant to this section.



(II) An ordinance adopted pursuant to subsection (11)(k)(I) of this section may prohibit delivery of medical marijuana or medical marijuana products from a medical marijuana store that is outside a municipality's, county's, city's, or city and county's jurisdictional boundaries to an address within its jurisdictional boundaries.

(I) Notwithstanding any provisions of this section, delivery of retail marijuana or retail marijuana products is not permitted at any school or on the campus of any institution of higher education.

(m)

(I) The state licensing authority shall begin issuing medical marijuana delivery permits to qualified medical marijuana store applicants on, but not earlier than, January 2, 2020.

(II) No later than January 2, 2021, the state licensing authority shall submit a report to the finance committees of the house of representatives and the senate, or any successor committees, regarding the number of medical marijuana delivery applications submitted, the number of medical marijuana delivery permits issued, any findings by the state licensing authority of criminal activity materially related to medical marijuana delivery, and any incident reports that include felony charges materially related to medical marijuana delivery, which were filed and reported to the state licensing authority by the law enforcement agency, district attorney, or other agency responsible for filing the felony charges. The state licensing authority may consult with the division of criminal justice in the department of public safety in the collection and analysis of additional crime data materially related to medical marijuana delivery.

(12) Notwithstanding any other provision of law to the contrary, a licensed medical marijuana store may compensate its employees using performance-based incentives, including sales-based performance-based incentives.

*C.R.S. § 44-10-501*

Amended by 2021 Ch. 313, § 8, eff. 1/1/2022.

Renumbered from C.R.S. § 44-11-402 and amended by 2019 Ch. 315, § 5, eff. 1/1/2020, except that subsection (3)(e) is effective 7/1/2020.

*(1) This section is similar to former § 44-11-402 as it existed prior to 2020.*

*(2) Section 38 of chapter 315 (SB 19-224), Session Laws of Colorado 2019, provides that the effective date of subsection (3)(e) is July 1, 2020.*

This section is set out more than once. See also C.R.S. § 44-10-501, effective until 1/1/2022.

**Colo. Rev. Stat. § 44-10-601**

Section 44-10-601 - [Effective Until 1/1/2022] Retail marijuana store license - rules - definitions

**(1)**

(a) A retail marijuana store license may be issued only to a person selling retail marijuana or retail marijuana products pursuant to the terms and conditions of this article 10.

(b) A retail marijuana store may cultivate its own retail marijuana if it obtains a retail marijuana cultivation facility license, or it may purchase retail marijuana from a licensed retail marijuana cultivation facility.

(c) A retail marijuana store shall not accept any retail marijuana purchased from a retail marijuana cultivation facility unless the retail marijuana store is provided with evidence that any applicable excise tax due, pursuant to article 28.8 of title 39, was paid.

(d) The retail marijuana store shall track all of its retail marijuana and retail marijuana products from the point that they are transferred from a retail marijuana cultivation facility or retail marijuana products manufacturer to the point of sale.

**(2)**

(a) Notwithstanding the provisions of this section, a retail marijuana store licensee may also sell retail marijuana products that are prepackaged and labeled as required by rules of the state licensing authority pursuant to section 44-10-203(2)(f) and (3)(b).

(b) A retail marijuana store licensee may transact with a retail marijuana products manufacturer licensee for the purchase of retail marijuana products upon a retail marijuana products manufacturer licensee's licensed premises or a retail marijuana store's licensed premises.

(c) A retail marijuana store may sell retail marijuana and retail marijuana products to a retail marijuana hospitality and sales business licensee.

**(3)****(a)**

(I) A retail marijuana store may not sell more than one ounce of retail marijuana or its equivalent in retail marijuana products, including retail marijuana concentrate, except for nonedible, nonpsychoactive retail marijuana products, including ointments, lotions, balms, and other nontransdermal topical products, during a single transaction to a person.

(II) As used in this subsection (3)(a), "equivalent in retail marijuana products" has the same meaning as established by the state licensing authority by rule pursuant to section 44-10-203(4).

**(b)**

**(I)** Prior to initiating a sale, the employee of the retail marijuana store making the sale shall verify that the purchaser has a valid identification card showing the purchaser is twenty-one years of age or older. If a person under twenty-one years of age presents a fraudulent proof of age, any action relying on the fraudulent proof of age shall not be grounds for the revocation or suspension of any license issued under this article 10.

**(II)**

**(A)** If a retail marijuana store licensee or employee has reasonable cause to believe that a person is under twenty-one years of age and is exhibiting fraudulent proof of age in an attempt to obtain any retail marijuana or marijuana product, the licensee or employee is authorized to confiscate such fraudulent proof of age, if possible, and shall, within seventy-two hours after the confiscation, remit to a state or local law enforcement agency. The failure to confiscate such fraudulent proof of age or to remit to a state or local law enforcement agency within seventy-two hours after the confiscation does not constitute a criminal offense.

**(B)** If a retail marijuana store licensee or employee believes that a person is under twenty-one years of age and is exhibiting fraudulent proof of age in an attempt to obtain any retail marijuana or retail marijuana product, the licensee or employee or any peace or police officer, acting in good faith and upon probable cause based upon reasonable grounds therefor, may detain and question such person in a reasonable manner for the purpose of ascertaining whether the person is guilty of any unlawful act regarding the purchase of retail marijuana. The questioning of a person by an employee or a peace or police officer does not render the licensee, the employee, or the peace or police officer civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution, or unlawful detention.

**(c)**

**(I)** A retail marijuana store that sells an industrial hemp product shall ensure that the industrial hemp product has passed all testing required by rules promulgated by the state licensing authority pursuant to section 44-10-203(2)(d). Prior to taking possession of the industrial hemp product, a retail marijuana store shall verify the industrial hemp product passed all testing required for retail marijuana products at a licensed retail marijuana testing facility and that the person transferring the industrial hemp product has received a registration from the department of public health and environment pursuant to section 25-5-426.

**(II)** Absent sampling and testing standards established by the department of public health and environment for the sampling and testing of an industrial hemp product, a person transferring an industrial hemp product to a retail marijuana store pursuant to this section shall comply with sampling and testing standards consistent with those established by the state licensing authority pursuant to this article 10. The state licensing authority shall report to the department of public health and environment any investigations or findings of violations of this section by a person registered pursuant to section 25-5-426.

(4) A retail marijuana store may provide, except as required by section 44-10-203(2)(d), a sample of its products to a facility that has a marijuana testing facility license from the state licensing authority for testing and research purposes. A retail marijuana store shall maintain a record of what was provided to the testing facility, the identity of the testing facility, and the results of the testing.

(5) All retail marijuana and retail marijuana products sold at a licensed retail marijuana store shall be packaged and labeled as required by rules of the state licensing authority pursuant to section 44-10-203(2)(f) and (3)(b).

(6) A licensed retail marijuana store shall comply with all provisions of article 34 of title 24, as the provisions relate to persons with disabilities.

(7)

(a) A licensed retail marijuana store may only sell retail marijuana, retail marijuana products, marijuana accessories, nonconsumable products such as apparel, and marijuana related products such as childproof packaging containers, but is prohibited from selling or giving away any consumable product, including but not limited to cigarettes or alcohol, or edible product that does not contain marijuana, including but not limited to sodas, candies, or baked goods; except that a retail marijuana store may sell industrial hemp products.

(b) A licensed retail marijuana store may not sell any retail marijuana or retail marijuana products that contain nicotine or alcohol, if the sale of the alcohol would require a license pursuant to article 3 or 4 of this title 44.

(c) A licensed retail marijuana store shall not sell retail marijuana or retail marijuana products over the internet nor deliver retail marijuana or retail marijuana products to a person not physically present in the retail marijuana store's licensed premises.

(8) The premises of a licensed retail marijuana store is the only place where an automatic dispensing machine that contains retail marijuana or retail marijuana products may be located. If a licensed retail marijuana store uses an automatic dispensing machine that contains retail marijuana and retail marijuana products, it must comply with the regulations promulgated by the state licensing authority for its use.

(9) Retail marijuana or retail marijuana products may not be consumed on the premises of a retail marijuana store.

(10) Notwithstanding any other provision of state law, sales of retail marijuana and retail marijuana products are not exempt from state or local sales tax.

(11) A display case containing marijuana concentrate must include the potency of the marijuana concentrate next to the name of the product.

(12) Notwithstanding any other provision of law to the contrary, a licensed retail marijuana store may compensate its employees using performance-based incentives, including sales-based performance-based incentives.

(13)

(a)

(I) There is authorized a retail marijuana delivery permit to a retail marijuana store license authorizing the permit holder to deliver retail marijuana and retail marijuana products.

XX

**(II)** A retail marijuana delivery permit is valid for one year and may be renewed annually upon renewal of the retail marijuana store license or retail marijuana transporter license.

**(III)** A retail marijuana delivery permit issued pursuant to this section applies to only one retail marijuana store; except that a single retail marijuana delivery permit may apply to multiple retail marijuana stores if the retail marijuana stores are in the same local jurisdiction and are identically owned, as defined by the state licensing authority for purposes of this section.

**(IV)** The state licensing authority may issue a retail marijuana delivery permit to a qualified applicant, as determined by the state licensing authority, that holds a retail marijuana store license issued pursuant to this article 10. A permit applicant is prohibited from delivering retail marijuana and retail marijuana products without state and local jurisdiction approval. If the applicant does not receive local jurisdiction approval within one year from the date of the state licensing authority approval, the state permit expires and may not be renewed. If an application is denied by the local licensing authority, the state licensing authority shall revoke the state-issued permit. The state licensing authority has discretion in determining whether an applicant is qualified to receive a retail marijuana delivery permit. A retail marijuana delivery permit issued by the state licensing authority is deemed a revocable privilege of a licensed retail marijuana store or retail marijuana transporter licensee. A violation related to a retail marijuana delivery permit is grounds for a fine or suspension or revocation of the delivery permit or retail marijuana store license.

**(b)** A retail marijuana store licensee shall not make deliveries of retail marijuana or retail marijuana products to individuals while also transporting retail marijuana or retail marijuana products between licensed premises in the same vehicle.

**(c)** The licensed retail marijuana store shall charge a one-dollar surcharge on each delivery. The licensed retail marijuana store shall remit the surcharges collected on a monthly basis to the municipality where the licensed retail marijuana store is located, or to the county if the licensed retail marijuana store is in an unincorporated area, for local law enforcement costs related to marijuana enforcement. Failure to comply with this subsection (13)(c) may result in nonrenewal of the retail marijuana delivery permit.

**(d)** A licensed retail marijuana store with a retail marijuana delivery permit may deliver retail marijuana and retail marijuana products only to the individual who placed the order and who:

**(I)** Is twenty-one years of age or older;

**(II)** Receives the delivery of retail marijuana or retail marijuana products pursuant to rules; and

**(III)** Possesses an acceptable form of identification.

(e) Any person delivering retail marijuana or retail marijuana products must possess a valid occupational license and be a current employee of the licensed retail marijuana store or retail marijuana transporter licensee with a valid retail marijuana delivery permit; must have undergone training regarding proof-of-age identification and verification, including all forms of identification that are deemed acceptable by the state licensing authority; and must have any other training required by the state licensing authority.

(f) In accordance with this subsection (13) and rules adopted to implement this subsection (13), a licensed retail marijuana store with a valid retail marijuana delivery permit may:

(I) Receive an order through electronic or other means for the purchase and delivery of retail marijuana or retail marijuana products. When using an online platform for marijuana delivery, the platform must require the individual to choose a retail marijuana store before viewing the price.

(II) Deliver retail marijuana or retail marijuana products not in excess of the amounts established by the state licensing authority;

(III) Deliver only to an individual at the address provided in the order;

(IV) Deliver no more than once per day to the same individual or residence;

(V)

(A) Deliver only to private residences.

(B) For purposes of this section, "private residences" means private premises where a person lives, such as a private dwelling place or place of habitation, and specifically excludes any premises located at a school or on the campus of an institution of higher education, or any other public property.

(VI) Deliver retail marijuana or retail marijuana products only by a motor vehicle that complies with this section and the rules promulgated pursuant to this section and section 44-10-203(2)(dd); and

(VII) Use an employee to conduct deliveries, or contract with a retail marijuana transporter that has a valid retail marijuana delivery permit to conduct deliveries on its behalf, from its retail marijuana store or its associated state licensing authority-authorized storage facility as defined by rule.

(g)

(I) At the time of the order, the retail marijuana store shall require the individual to provide information necessary to verify the individual is at least twenty-one years of age. The provided information must, at a minimum, include the following:

(A) The individual's name and date of birth;

(B) The address of the residence where the order will be delivered; and

(C) Any other information required by state licensing authority rule.



**(II)** Prior to transferring possession of the order to an individual, the person delivering the order shall inspect the individual's identification and verify that the information provided at the time of the order matches the name and age on the individual's identification.

**(h)**

**(I)** Unless otherwise provided by the state licensing authority by rules promulgated pursuant to this article 10, all requirements applicable to other licenses issued pursuant to this article 10 apply to the delivery of retail marijuana and retail marijuana products, including but not limited to inventory tracking, transportation, and packaging and labeling requirements.

**(II)** The advertising regulations and prohibitions adopted pursuant to section 44-10-203(3)(a) apply to retail marijuana delivery operations pursuant to this subsection (13).

**(i)** It is not a violation of any provision of state, civil, or criminal law for a licensed retail marijuana store or retail marijuana transporter licensee with a valid retail marijuana delivery permit, or such person who has made timely and sufficient application for the renewal of the permit, or its licensees to possess, transport, and deliver retail marijuana or retail marijuana products pursuant to a retail marijuana delivery permit in amounts that do not exceed amounts established by the state licensing authority.

**(j)** A local law enforcement agency may request state licensing authority reports, including complaints, investigative action, and final agency action orders, related to criminal activity materially related to retail marijuana delivery in the law enforcement agency's jurisdiction, and the state licensing authority shall promptly provide any reports in its possession for the law enforcement agency's jurisdiction.

**(k)**

**(I)** Notwithstanding any provisions of this section, delivery of retail marijuana or retail marijuana products is not permitted in any municipality, county, or city and county unless the municipality, county, or city and county, by either a majority of the registered electors of the municipality, county, or city and county voting at a regular election or special election called in accordance with the "Colorado Municipal Election Code of 1965", article 10 of title 31, or the "Uniform Election Code of 1992", articles 1 to 13 of title 1, as applicable, or a majority of the members of the governing board for the municipality, county, or city and county, vote to allow the delivery of retail marijuana or retail marijuana products pursuant to this section.

**(II)** An ordinance adopted pursuant to subsection (13)(k)(I) of this section may prohibit delivery of retail marijuana and retail marijuana products from a retail marijuana store that is outside a municipality's, county's, city's, or city and county's jurisdictional boundaries to an address within its jurisdictional boundaries.

**(I)** Notwithstanding any provisions of this section, delivery of retail marijuana or retail marijuana products is not permitted at any school or on the campus of any institution of higher education.

**(m)** The state licensing authority shall begin issuing retail marijuana delivery permits to qualified retail marijuana store applicants on, but not earlier than, January 2, 2021.

**(14)** An accelerator store licensee may operate on the premises of a retail marijuana store licensee if before each accelerator store licensee operates, the retail marijuana store licensee has its premises endorsed pursuant to rule and each accelerator store licensee is approved to operate on that premises.

**(15)** A retail marijuana store licensee that hosts an accelerator store licensee may, pursuant to rule, provide technical and compliance assistance to an accelerator store licensee operating on its premises. A retail marijuana store licensee that hosts an accelerator store licensee may, pursuant to rule, provide capital assistance to an accelerator store licensee operating on its premises.

**(16)** A retail marijuana store, pursuant to rule and the state licensing authority discretion, may be eligible for incentives available through the department of revenue or the office of economic development and international trade, including but not limited to a reduction in application or license fees.

*C.R.S. § 44-10-601*

Amended by 2020 Ch. 184, § 7, eff. 9/14/2020.

Amended by 2019 Ch. 340, § 17, eff. 1/1/2020.

Renumbered from C.R.S. § 44-12-402 and amended by 2019 Ch. 315, § 5, eff. 1/1/2020, except that subsection (3)(c) is effective 7/1/2020.

*(1) This section is similar to former § 44-12-402 as it existed prior to 2020.*

*(2) Section 38 of chapter 315 (SB 19-224), Session Laws of Colorado 2019, provides that the effective date of subsection (3)(c) is July 1, 2020.*

This section is set out more than once. See also C.R.S. § 44-10-601, effective 1/1/2022.



- K. Inventory Tracking System Access and Scale. Every permitted off-premises storage facility must have an Inventory Tracking System terminal and a scale tested and approved in accordance with measurement standards established in section 35-14-127, C.R.S.
- L. Adequate Care of Perishable Regulated Marijuana Product. A Regulated Marijuana Business must provide adequate refrigeration for perishable Regulated Marijuana Product and shall utilize adequate storage facilities and transport methods.
- M. Consumption Prohibited. A Regulated Marijuana Business shall not permit the consumption of marijuana or marijuana product on the premises of its permitted off-premises storage facility.

### **Basis and Purpose – 3-615**

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(1)(c), 44-10-203(1)(j), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(2)(dd), C.R.S. The purpose of this rule is to provide requirements for a Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter or Retail Marijuana Transporter to apply for and conduct deliveries to Private Residences pursuant to a delivery permit. This rule provides application and renewal requirements for a delivery permit. Additionally, the rule describes requirements for responsible vendor training, requirements for use of the inventory tracking system, Delivery Motor Vehicles requirements including security, requirements for delivery orders, requirements prior to completing a delivery to a patient or consumer at a Private Residence and requirements for maintaining the confidentiality of all patient and customer information.

### **3-615 – Regulated Marijuana Delivery Permits**

- A. Application, Qualification, and Eligibility for Delivery Permit.
  - 1. Beginning January 2, 2020, a Medical Marijuana Store may apply for a delivery permit. The application shall be made on Division forms and in accordance with the 2-200 Series Rules. The delivery permit application can be submitted simultaneously with a Medical Marijuana Store initial or renewal application or it can be separate from a Medical Marijuana Store application but the application must identify the Medical Marijuana Store(s) seeking to obtain the delivery permit.
  - 2. Beginning January 2, 2021, a Retail Marijuana Store, a Medical Marijuana Transporter, and a Retail Marijuana Transporter may apply for a delivery permit. The delivery permit application can be submitted simultaneously with a Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter initial or renewal application or it can be separate from a Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter application but the application must identify the Retail Marijuana Store(s), Medical Marijuana Transporter(s), or Retail Marijuana Transporter(s) seeking to obtain the delivery permit.
  - 3. Prior to the State Licensing Authority issuing an Applicant a delivery permit, the Applicant must establish the Local Licensing Authority and/or Local Jurisdiction where the Applicant is located:
    - a. By ordinance or resolution has permitted delivery of Regulated Marijuana in the jurisdiction, and
    - b. Is currently accepting applications for delivery permits in the jurisdiction, if required.

4. Multiple Medical Marijuana Stores, Retail Marijuana Stores, Medical Marijuana Transporters, or Retail Marijuana Transporters with identical Controlling Beneficial Owners that are in the same local jurisdiction may obtain one delivery permit that allows all Medical Marijuana Stores, all Retail Marijuana Stores, all Medical Marijuana Transporters, or all Retail Marijuana Transporters in that jurisdiction to make deliveries to patients or consumers.
5. Delivery Permit Renewal.
  - a. A delivery permit must be renewed annually with the Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter license it accompanies. A Medical Marijuana Store or Retail Marijuana Store must disclose to the Division any online platform provider that the Licensee has utilized during the previous year at the time of renewal.
  - b. Length of Delivery Permit.
    - i. A delivery permit issued with an initial or renewal license application is valid for one year and will expire at the same time as the license for the associated Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter.
    - ii. A delivery permit that is not issued with an initial or renewal application will be valid for less than one year to align the license expiration date of the related Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter. In all years after the first year, such a delivery permit will be valid for one year.
  - c. In addition to any other basis for denial of renewal application, the State Licensing Authority may also consider the following facts and circumstances as an additional basis for denial of a delivery permit renewal application:
    - i. The Medical Marijuana Store or Retail Marijuana Store failed to collect the one-dollar surcharge on every delivery or failed to timely remit the one-dollar surcharge to the municipality where the Medical Marijuana Store or Retail Marijuana Store is located, or to the county if the Medical Marijuana Store or Retail Marijuana Store is in an unincorporated area.
- B. Delivery to Private Residence. Private residence includes, but is not limited to, a private premises where a person lives such as a private dwelling, place of habitation, a house, a multi-dwelling unit for residential occupants, or an apartment unit. Private residence does not include any premises located at a school, on the campus of an institution of higher education, public property, or any commercial property unit such as offices or retail space.
- C. Responsible Vendor Certification Required. A Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter must obtain a responsible vendor designation pursuant to sections 44-10-1201 or 44-10-1202, C.R.S., and the 3-500 Series Rules including the delivery curriculum prior to conducting its first delivery.
- D. Inventory Tracking System Required. A Regulated Marijuana Business possessing a valid delivery permit must use the inventory tracking system and transport manifests to track all Regulated Marijuana delivered to the intended patient or consumer as required by Rule 5-130. This includes the use of a transport manifest.

**E. Delivery Motor Vehicle Requirements.**

1. Any Delivery Motor Vehicle must be owned or leased by the Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, Retail Marijuana Transporter, or an Owner Licensee of the Regulated Marijuana Business that holds the delivery permit, must be registered in the State of Colorado, and must be insured.
2. Any Delivery Motor Vehicle must have a vehicle tracking system that is capable of real-time tracking and recording of the route taken by the Delivery Motor Vehicle while conducting deliveries that can be accessed remotely in real-time by the Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter. The vehicle tracking system may be an application installed on a mobile device. The real-time location of the Delivery Motor Vehicle shall not be displayed to any patients or consumers.
3. Any Delivery Motor Vehicle must not have any external markings, words, or symbols that indicate the Delivery Motor Vehicle is used for delivery of Regulated Marijuana or is owned or leased by a Medical Marijuana Business or a Retail Marijuana Business.
4. Regulated Marijuana must not be visible from outside the Delivery Motor Vehicle.
5. Delivery Motor Vehicle security requirements include but are not limited to:
  - a. A security alarm system, and
  - b. A secure, locked, opaque storage compartment that is securely affixed to the Delivery Motor Vehicle for the purpose of securing Regulated Marijuana.
6. Video Surveillance Requirements.
  - a. The Delivery Motor Vehicle must be equipped with video surveillance equipment that digitally records during all deliveries. The video surveillance shall record at least the secured, locked, opaque storage compartment containing the Regulated Marijuana and the front view of the Delivery Motor Vehicle (e.g. dash camera).
  - b. Video surveillance shall be kept for a minimum of 40 days, must be capable of being embedded with the date and time, must be reproducible upon request from law enforcement, the Division, a Local Licensing Authority or a Local Jurisdiction and must be archived in a format that ensures authentication and guarantees no alteration of the video.
7. An enclosed Delivery Motor Vehicle shall not contain more than \$10,000.00 in retail value of Regulated Marijuana. A Delivery Motor Vehicle that is not enclosed shall not contain more than \$2,000.00 in retail value of Regulated Marijuana.
8. A Delivery Motor Vehicle must not leave the State of Colorado while any amount of Regulated Marijuana is in the Delivery Motor Vehicle.
9. Only persons licensed by the State Licensing Authority and identified on the transport manifest may occupy a Delivery Motor Vehicle while conducting deliveries of Regulated Marijuana.

**F. Delivery Order Requirements.**

1. A Medical Marijuana Store or a Retail Marijuana Store that has a valid delivery permit may accept orders for delivery of Regulated Marijuana to patients who are at least 21 years of age, parents or guardians of patient under 18 years of age, or consumers who are at least 21 years of age at a Private Residence. Delivery orders to patients ages 18 to 20 are not permitted.
2. For a Medical Marijuana Store or a Retail Marijuana Store that utilizes an online platform provider:
  - a. The online platform provider must require that the patient or consumer choose a Medical Marijuana Store or Retail Marijuana Store before displaying the price of Regulated Marijuana to the patient or consumer; and
  - b. The Medical Marijuana Store or Retail Marijuana Store must receive verification that there has not already been a delivery of Regulated Marijuana to that Private Residence through the online platform provider that same business day.
3. All delivery orders must document the following information which must be maintained pursuant to Rule 3-905 by the Medical Marijuana Store or the Retail Marijuana Store:
  - a. The name and date of birth of the patient or consumer placing the delivery order;
  - b. The address of the Private Residence where the order will be delivered;
  - c. For Medical Marijuana delivery orders only, the registration number reflecting on the patient's registry identification card; and
  - d. For Medical Marijuana delivery orders only, if the patient is under 18 years of age, the parent or guardian designated as the patient's primary caregiver, and if applicable, the registration number of the primary caregiver.
4. A Medical Marijuana Store or a Retail Marijuana Store may accept payment for delivery orders using any legal method of payment, gift card pre-payments or payment on delivery, or pre-payment accounts established with a Medical Marijuana Store or Retail Marijuana Store except that any payment with an Electronic Benefits Transfer Services Card is not permitted.
  - a. A Local Licensing Authority or Local Jurisdiction may further restrict legal methods of payment not expressly permitted by section 44-10-203(2)(dd)(XV), C.R.S.
5. Regulated Marijuana must be weighed, packaged, prepared, and labeled for delivery on the Licensed Premises of a Medical Marijuana Store or Retail Marijuana Store or at their off-premises storage facility after receipt of a delivery order. Regulated Marijuana cannot be placed into a Delivery Motor Vehicle until after an order has been received and the Regulated Marijuana has been packaged and labeled for delivery to the patient or consumer as required by the 3-1000 Series Rules.

6. Medical Marijuana Transporters and Retail Marijuana Transporters shall not take delivery orders but may deliver Regulated Marijuana on behalf of Medical Marijuana Stores and Retail Marijuana Stores pursuant to a contract with the Medical Marijuana Store or Retail Marijuana Store provided that the store also holds a valid delivery permit. The Medical Marijuana Store and Medical Marijuana Transporter must maintain copies of all contracts for delivery pursuant to Rule 3-905. The Retail Marijuana Store and Retail Marijuana Transporter must maintain copies of all contracts for delivery pursuant to Rule 3-905.

**G. Regulated Marijuana Delivery Requirements.**

1. A Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter shall not deliver Regulated Marijuana to patients, parents, guardians, or consumers while also transporting Regulated Marijuana between Licensed Premises in the same Delivery Motor Vehicle.
2. Delivery of Medical Marijuana and Retail Marijuana.
  - a. A Medical Marijuana Store and Retail Marijuana Store, both of which hold a valid delivery permit, and which have identical Controlling Beneficial Owners, may complete deliveries of Medical Marijuana and Retail Marijuana using the same Delivery Motor Vehicle and without returning to the Medical Marijuana Store or Retail Marijuana Store between deliveries.
  - b. A Medical Marijuana Transporter and Retail Marijuana Transporter, both of which hold a valid delivery permit, and which have identical Controlling Beneficial Owners may complete deliveries of Medical Marijuana and Retail Marijuana using the same Delivery Motor Vehicle and without returning to the Medical Marijuana Store or Retail Marijuana Store between deliveries.
  - c. A Medical Marijuana Transporter holding a valid delivery permit may make deliveries for multiple Medical Marijuana Stores that also hold valid delivery permits using the same Delivery Motor Vehicle and without returning to a Medical Marijuana Store between deliveries.
  - d. A Retail Marijuana Transporter holding a valid delivery permit may make deliveries for multiple Retail Marijuana Stores that also hold valid delivery permits using the same Delivery Motor Vehicle and without returning to a Retail Marijuana Store between deliveries.
3. An Owner Licensee or Employee Licensee delivering Regulated Marijuana shall not open any Container of Regulated Marijuana in the Delivery Motor Vehicle and is prohibited from packaging or re-packaging Regulated Marijuana once the Delivery Motor Vehicle has departed from the Licensed Premises of a Medical Marijuana Store or Retail Marijuana Store.
4. A Medical Marijuana Store or Retail Marijuana Store shall not accept delivery orders for Regulated Marijuana Product that is perishable unless the Delivery Motor Vehicle that will make the delivery has the ability to secure the Regulated Marijuana Product in climate-controlled storage.
5. A Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter must maintain a transport manifest that documents the following:
  - a. The time of delivery;

- b. The name, and identification number of the valid, acceptable identification (e.g. driver's license) presented by the patient or consumer;
- c. Address of the Private Residence;
- d. Acknowledgement of receipt of delivery by the person receiving the delivery;
- e. If applicable, patient registry number;
- f. If applicable, primary caregiver registry number of the patient's parent or guardian; and
- g. For every Regulated Marijuana delivery that could not be completed, the reason the delivery could not be completed.

**6. Proof of Patient Medical Registry and Identification.**

- a. Prior to transferring possession of the order, the Owner Licensee or Employee Licensee delivering Medical Marijuana to a patient or a patient's parent or guardian must:
  - i. Inspect the patient's or parent's or guardian's identification and registry identification card;
  - ii. Verify the possession of a valid registry identification card;
  - iii. Verify that the information provided at the time of order match the name and age on the patient's or parent or guardian's identification; and
  - iv. Verify that the identification and registry identification card belong to the person receiving the delivery.
- b. The Owner Licensee or Employee Licensee must refuse delivery of Medical Marijuana if the person attempting to accept the delivery order cannot establish all of the requirements of subparagraph (F)(6)(a)(i) through (iv) above.

**7. Proof of Consumer Identification.**

- a. The Owner Licensee or Employee Licensee delivering Retail Marijuana to a consumer must first verify that the natural person accepting the delivery has an acceptable form of identification demonstrating the person is at least 21 years of age and that the person is the same as the person that placed the order for delivery with the Retail Marijuana Store.
- b. The Owner Licensee or Employee Licensee must refuse delivery of Retail Marijuana if the natural person attempting to accept the delivery order cannot establish all the requirements of subparagraph (F)(5)(a) above.

**8. Daily Delivery Limits.**

- a. A Medical Marijuana Store or Medical Marijuana Transporter must not deliver individually or in any combination, more than two ounces of Medical Marijuana, 40 grams of Medical Marijuana Concentrate, or Medical Marijuana Products containing more than 20,000 milligrams of THC to a patient in a single business day.

- b. A Medical Marijuana Store or Medical Marijuana Transporter must not deliver to a patient, parent, or guardian or Private Residence where the Licensee knows or reasonably should know that the patient, parent or guardian, or Private Residence has already received a delivery during that same business day. This does not prohibit delivery to more than one patient at the same time and private residence.
  - c. A Retail Marijuana Store or Retail Marijuana Transporter must not deliver individually or in any combination, more than one ounce of Retail Marijuana, 8 grams of Retail Marijuana Concentrate, or Retail Marijuana Products containing more than ten 80 milligram servings of THC to a customer in a single business day.
  - d. A Retail Marijuana Store or Retail Marijuana Transporter must not deliver to a consumer or Private Residence where the Licensee knows or reasonably should know that the consumer or Private Residence has already received a delivery during that same business day. This does not prohibit delivery to more than one consumer at the same time and private residence.
- 9. An Owner Licensee or Employee Licensee who cannot complete a delivery order for any reason must return the Regulated Marijuana to the Medical Marijuana Store, Retail Marijuana Store, or off-premises storage facility from which the delivery order originated. If the Container is unopened and has not been tampered with, the Medical Marijuana Store, Retail Marijuana Store, or off-premises storage facility may return the Regulated Marijuana into its inventory and reconcile it with the Inventory Tracking System by the close of business that same day. Otherwise, the Regulated Marijuana must be destroyed in accordance with this Rule and Rule 3-235.
- H. Confidentiality of Patient and Consumer Personal Identifying Information. A Medical Marijuana Store, a Retail Marijuana Store, a Medical Marijuana Transporter, a Retail Marijuana Transporter, and their respective Owner Licensees and Employee Licensees must keep all personal identifying information and any health care information obtained from patients and consumers confidential and must not disclose such personally identifiable information and any health care information to any person other than those who need that information to take, process, or deliver the order or otherwise as required by the Marijuana Code, or Title 18, or Title 25 of the Colorado Revised Statutes.

### **3-700 Series – Signage and Advertising**

#### **Basis and Purpose – 3-705**

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(3)(a), and 44-10-701(3)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clearly delineate that a Regulated Marijuana Business is not permitted to make deceptive, false, or misleading statements in Advertising materials or on any product or document provided to a patient or consumer. This Rule 3-705 was previously Rules M and R 1102, 1 CCR 212-1 and 1 CCR 212-2.

#### **3-705 – Advertising General Requirement: No Deceptive, False or Misleading Statements**

A Regulated Marijuana Business shall not engage in Advertising that is deceptive, false, or misleading. A Regulated Marijuana Business shall not make any deceptive, false, or misleading assertions or statements on any product, any sign, or any document provided to a patient or consumer.