

August 8, 2024

MEMO TO: Honorable Mayor and City Council

THROUGH: Charles P. Potucek, City Manager  
Victoria Yarbrough, Assistant City Manager  
Matt McLachlan, AICP, Community Development Director

FROM: Jeff Pregler, AICP, Senior Planner

SUBJECT: REQUEST FOR AGENDA ITEM PLACEMENT  
DECLARING A 30-DAY PUBLIC RECORD  
Resolution 2024-057  
Development Code Text Amendment  
Section 151.06.005(E)

**REQUESTED ACTION:**

Approval of Resolution 2024-055, Declaring as Public Record text amendments to the Sierra Vista Development Code, as shown in Exhibit A.

**RECOMMENDATION:**

The City Manager recommends approval.  
The Director of Community Development recommends approval.  
The Planning & Zoning Commission recommended approval, 5-0.

**APPLICANT**

Formula 420 dba Trulieve of Sierra Vista  
1633 State Route 92, Ste. 7

**BACKGROUND:**

The applicant is proposing a text amendment to the City's Development Code that would amend the hours of operation for recreational marijuana facilities. Operational requirements specified under Sec. 151.06.005 (E) of the Code restricts operating hours of marijuana facilities to no earlier than 9:00am and no later than 7:00pm. The requested amendment would expand the hours of operation for marijuana facilities (including dispensaries) to no earlier than 8:00am and no later than 10:00pm.

The Arizona voters passed Proposition 207 on November 3, 2020. The Proposition, also known as the Arizona Smart and Safe Act, allowed for the adult use of recreational marijuana within the state of Arizona. One component of the Act allowed for recreational marijuana establishments which, according to the state's definition, are retail establishments that can sell, cultivate, and manufacture marijuana and marijuana products. Although marijuana establishments are licensed and regulated by the Arizona Department of Health Services (ADHS), state law grants local

municipalities limited discretion on regulating these establishments. As such, on February 11, 2021, the Mayor and City Council approved an Ordinance allowing for the establishment of recreational marijuana dispensaries within the City subject to specific development and operational requirements.

One such operational requirement was limiting the hours of operation for marijuana dispensaries. The City at the time, had an approved medical marijuana ordinance which limited the hours of operation of medical marijuana dispensaries to open no earlier than 9:00am and to close no later than 7:00pm. When the recreational marijuana facilities ordinance was written, these same hours of operation were applied. The medical marijuana ordinance and the hours of operation were approved in 2011. The purpose of limiting the hours was to minimize any negative impacts associated with the use.

**ANALYSIS**

Community Comparison

Staff researched the operating hours for recreational marijuana facilities currently permitted in other cities in Arizona. The findings revealed that most of the communities have dispensaries with hours of operation that are consistent with the requested amendment. See chart below:

<b>MARIJUANA DISPENSARY HOURS OF OPERATION COMPARISON TABLE</b>	
<b>COMMUNITY</b>	<b>HOURS OF OPERATION</b>
PHOENIX	8:00am-10:00pm
CASA GRANDE	7:00am-10:00pm
CHANDLER	7:00am-10:00pm
SCOTTSDALE	6:00am-10:00pm
TUCSON	7:00am-10:00pm
APACHE JUNCTION	Determined by CUP
LAKE HAVASU	7:00am to 10:00pm
AVONDALE	9:00am to 8:00pm
GILBERT	8:00am to 10:00pm
MARANA	7:00am to 10:00pm
ORO VALLEY	9:00am to 5:00pm
BISBEE	Determined by SUP
BULLHEAD CITY	No restrictions
KINGMAN	8:00am to 9:00pm
FLAGSTAFF	8:00am to 10:00pm
PRESCOTT	9:00am to 8:00pm
PRESCOTT VALLEY	7:00am to 10:00pm

The requested amendment complies with Section R9-18-308 of the Arizona Administrative Code (A.A.C.) which states, “ensure that the marijuana establishment’s retail site is operating and available to provide marijuana and marijuana products to consumers at least 30 hours weekly between the hours of 7:00am and 10:00pm.” Therefore, the requested amendment is consistent with this A.A.C. requirement.

### Criminal Activity

Staff reviewed a police incident list of all police responses located at 1633 S. Highway 92. The list, which identified all incidents since 2022, the year Trulieve opened for business, did not indicate a significant amount of criminal activity at the marijuana dispensary. Chief Hiser indicated that he had no additional concerns with the expanded hours of operation based on the data available. (See police incident report as Attachment A.)

### Sales Tax

The hours of operation will increase by approximately 40 percent with the approval of the amendment. As a result, there will likely be an increase in sales tax revenues to the City.

## **FACTORS TO CONSIDER**

Pursuant to Section 151.31.005 of the Code, the burden of proof is upon the proponent. The more drastic the change or the greater the impact of the proposal, the greater is the burden upon the proponent.

The proponent included an Addendum to their Application that provides their reasoning and justification for the requested amendment (refer to Attachment B).

In summary, the Applicant claims that “the current regulations are outdated and do not adequately reflect the changing sentiment towards marijuana since it was first approved by the voters in 2012. Moreover, they state that the change will “align the city code” more closely with the minimum hours of operation required by the state.

In regard to public safety, the Applicant believes that the amendment will decrease congestion in the store and parking lot and make the area safer by not having the building and parking lot being vacant more hours of the day.

In regard to economic impact, expanding the store hours will allow for local employees to earn additional wages and bring in additional taxable revenue.

With respect to transportation, expanding store hours will lower congestion by spreading out store visits.

The Applicant asserts that the proposed text amendment is consistent with the General Plan by showing a proactive approach to regulatory updates, demonstrating that the city remains responsive to the needs of its residents and business community. Moreover, by connecting the amendment to the boarder goals of economic development, regulatory consistency, and community support, it clearly fits within the vision and objectives of Sierra Vista’s general plan.

## **STAFF FINDINGS AND RECOMMENDATION**

Staff finds that Applicant, on balance, has provided sufficient justification to meet the required findings for text amendments as enumerated under [Section 151.31.005 \(B\)\(2\)](#) of the Code. Specifically, the applicant has: (1) provided sufficient need and justification for the change; (2) demonstrated the relationship of the proposed amendment to the City's General Plan with appropriate consideration as to whether the proposed change will further the purposes of the Code; and (3) is consistent with the purposes of the Development Code to promote the growth of the City in an orderly and sustainable manner and to promote the public health, safety, peace, comfort, and general public welfare.

The proposed amendment adjusts the operating hours of any marijuana facilities that may be licensed by the state. Therefore, while there is currently only one dispensary within the City limits, the amendment does not constitute a granting of special privileges to an individual owner. Staff recommends that the Planning and Zoning Commission approve the text amendment as requested based on the findings required by the Code.

## **PLANNING & ZONING COMMISSION**

The Commission heard the proposed text amendment at a public hearing on July 23, 2024. There were no public comments and the Commission unanimously recommended approval of the code amendment.

Attachments: Attachment A-Police Incident Report  
Attachment B-Applicant's Submittal  
Exhibit A

ATTACHMENT A

<b>Nature</b>	<b>Incident address</b>	<b>Reported</b>
HIT AND RUN	1633 S HIGHWAY 92	21:21:27 10/13/22
ALARM 104 (False alarm)	1633 S HIGHWAY 92 ; TRULIEVE	01:00:39 10/25/22
DISORDERLY 113	1633 S HIGHWAY 92; HANA TOKYO	18:36:40 11/06/22
INFORMATION	1633 S HIGHWAY 92; MJ DISPENSARY	10:56:00 12/08/22
BURGLARY 110	1633 S HIGHWAY 92 # 7; DISPENSARY	08:02:27 04/13/23
UNATTENDED JUV	1633 S HIGHWAY 92	13:49:11 04/14/23
PARKING VIOLATION 132	1633 S HIGHWAY 92; Dispensary	14:07:34 04/20/23
ALARM 104 (False Alarm)	1633 S HIGHWAY 92; TRULIVE	09:41:57 05/03/23
HIT AND RUN	SNYDER BLVD & S HIGHWAY 92	16:15:58 05/10/23
ALARM 104 (False Alarm)	1633 S HIGHWAY 92;trulive	17:33:19 05/25/23
911 HANG UP	1633 S HIGHWAY 92 # 7	12:24:14 06/09/23
SUSP CIRCUM	1633 S HIGHWAY 92 # 7	19:23:48 07/02/23
NON INJURY PP (Non injury accident on private property)	1633 S HIGHWAY 92 # 7; 7	13:26:20 07/12/23
DISORDERLY 113	1633 S HIGHWAY 92	16:39:18 09/30/23
DV DIS CONDUCT (Domestic violence Disorderly Conduct)	1633 S HIGHWAY 92 # 7	09:17:51 12/04/23
CRIMINAL DAMAGE 111	1633 S HIGHWAY 92; TRULIEVE	10:56:57 02/01/24
ALARM 104 (False Alarm)	1633 S HIGHWAY 92;TRULIEVE	06:25:25 02/21/24
CRIMINAL DAMAGE 111	1633 S HIGHWAY 92 # 7	13:05:49 06/17/24

ATTACHMENT B

DEVELOPMENT CODE TEXT AMENDMENT  
APPLICATION FORM



DIRECT TO: City of Sierra Vista  
Department of Community Development  
1011 No. Coronado Drive  
Sierra Vista, AZ 85635  
(520) 458-3315

Date Submitted: 05/31/24

1. Applicant Name: Formula 420 dba Trulieve of Sierra Vista

Address: 1633 AZ-92 #7, Sierra Vista, AZ 85635

Telephone: 602-320-8206 E-mail: Andrew.Bauer@trulieve.com

2. Agent Name: Andrew Bauer

Address: 1155 W Rio Salado Pkwy., Suite 201, Tempe, AZ 85281

Telephone: 602-320-8206 E-mail: Andrew.Bauer@trulieve.com

3. Attachments (Check those which are included with this application):

Request Letter;

Application Fee - \$150 **AND** \$300 Publication Deposit;;

Letter of Agency (if submitting for the applicant)

3. Section of existing Code for which amendment is requested:

Section 151.06.005 Marijuana Facilities E1a. Operating hours shall not be earlier than 9:00 a.m. and be not later than 7:00p.m.

4. Proposed amendment (s) wording (attach a separate sheet if necessary):

Operating hours shall not be earlier than ~~9~~8:00 a.m. and be not later than ~~7~~10:00p.m.

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\_\_\_\_\_

5. Reasons for the amendment (attach a separate sheet if necessary) \_\_\_\_\_

**See attached**

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6. Justify how the proposed amendment will better meet the public interest(s) in the following areas, if applicable (attach separate sheet if additional space is needed): **See attached.**

Public Health & Safety: \_\_\_\_\_

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Economic: \_\_\_\_\_

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Transportation: \_\_\_\_\_

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Water: \_\_\_\_\_

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Recreation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Schools: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Conservation/protection of natural resources: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Changes in community characteristics: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Explain how the text amendment is compatible with the General Plan (attach a separate sheet if additional space is necessary: **See attached**.)

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\_\_\_\_\_  
\_\_\_\_\_

I ATTEST THAT THE INFORMATION PROVIDED IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Andrew Bauer  
Applicant Signature

05/31/24  
Date





**Trulieve of Sierra Vista**  
1633 AZ-92 #7  
Sierra Vista, AZ 85635

**Request Letter**

Trulieve of Sierra Vista, located at 1633 AZ-92 #7, is requesting an amendment to Sierra Vista Code Section 151.06.005 E-1-a, relating to hours of operation of marijuana dispensaries. Trulieve of Sierra Vista is seeking to extend the hours of operation for licensed dispensaries in Sierra Vista from 9:00 am to 7:00 pm to 8:00 am to 10:00 pm. We believe this change, which would make Sierra Vista consistent with state law and other Arizona cities, will benefit customers while not adversely affecting public safety.

Currently, the majority of cities in Arizona allow dispensaries to operate within the window of 8:00 am to 10:00 pm including Casa Grande, Chandler, Phoenix, Scottsdale, and Tucson. In fact, state law states that dispensaries must operate at least 30 hours weekly between 7:00 am and 10:00 pm.

This change will not have an adverse effect on public safety. In fact, when recommending a similar change in Phoenix, city staff concluded that, based on the numerous reviews of existing marijuana dispensaries, there are not significant public safety issues or detrimental effects from these establishments, including the ones with extended operating hours. The Phoenix City Council adopted the change followed by the City of Tempe.

In conclusion, extending Sierra Vista's dispensary hours of operation is a simple change that will benefit city residents and will better align the City with the rest of the state.



**Trulieve of Sierra Vista**

1633 AZ-92 #7  
Sierra Vista, AZ 85635

**ADDENDUM**

**5. Reasons for the amendment**

The proposed amendment to the city code, which updates allowed hours of operation for marijuana businesses, is crucial for several reasons. Firstly, the current regulations are outdated and do not adequately reflect the changing sentiment towards marijuana since it was first approved by voters in 2012. Secondly, this change will align the city code more closely with the state that states marijuana businesses must be open a minimum of 30hrs a week between the hours of 7am and 10pm. Additionally, providing clear, updated guidelines will demonstrate that the city is willing to work with businesses to help them grow and meet market demand. Ultimately, this code amendment modernizes the operational framework for marijuana businesses while enhancing public trust and confidence in local governance.

**6. Justify how the proposed amendment will better meet the public interest in the following areas:**

*Public Health & Safety:*

This amendment will better meet the public interest in Public Health & Safety by decreasing the congestion in the store and parking lot during the limited hours of operation. The expanded hours will also lead to a safer area as the parking lot and building will be in use and not vacant during more hours of the day.

*Economic:*

This amendment will better meet the public interest economically by bringing in additional taxable revenue through the expanded hours of operation. In addition, the expanded hours will allow for local employees to earn additional wages.

*Transportation:*

This amendment will better meet the public interest in transportation by lowering the congestion related to the limited hours of operation and vehicle traffic should decrease when store visits are spread out beyond the current confined allowed hours.

**7. Explain how the text amendment is compatible with the General Plan**

This amendment enhances public trust and confidence in local governance by showing a proactive approach to regulatory updates, demonstrating that the city remains responsive to the needs of its residents and business community. This responsiveness is integral to maintaining the high quality of life and progressive governance outlined in Sierra Vista's general plan.

By connecting the amendment to the broader goals of economic development, regulatory consistency, and community support, it clearly fits within the vision and objectives of Sierra Vista's general plan.

RESOLUTION 2024-057

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; DECLARING A 30-DAY PUBLIC RECORD PERIOD FOR AMENDMENTS TO CHAPTER 151 OF THE CITY CODE OF ORDINANCES, THE DEVELOPMENT CODE, AS SHOWN IN EXHIBIT A, ATTACHED HERETO; AND AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY, OR THEIR DULY AUTHORIZED OFFICES AND AGENTS TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION;

WHEREAS, in accordance with established policy and development code procedures, Formula 420 dba Trulieve of Sierra Vista, has proposed text amendments to Article 151.06.005(E), Marijuana Facilities Operational Requirements; and

WHEREAS, Article 151.31 of the Development Code requires that the City Council review and decide on all applications for text amendments; and

WHEREAS, per Article 151.31, the Planning & Zoning Commission recommended approval of the amendments to City Council; and

WHEREAS, under the provisions of Section 9-802 of the Arizona Revised Statutes, the proposed amendments to the City's Development Code shall be declared a matter of public record for a period of 30 days prior to being passed and adopted by ordinance.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1

The policy of the City of Sierra Vista declaring proposed text amendments to the Development Code as a public record be, and hereby is, reaffirmed.

SECTION 2

That the certain document entitled Exhibit A, proposed amendments to Development Code attached hereto, copies of which are on file in the office of the City Clerk, is hereby declared a 30-day public record.

SECTION 3

That the City Manager, City Clerk, City Attorney, or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 8<sup>TH</sup> DAY OF AUGUST, 2024

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CLEA McCAA  
Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
NATHAN WILLIAMS  
City Attorney

\_\_\_\_\_  
JILL ADAMS  
City Clerk

PREPARED BY:  
Jeff Pregler, AICP,

## EXHIBIT A

### Section 151.06.005, Marijuana Facilities

#### E.. Operational Requirements

1. Marijuana establishments and medical marijuana dispensaries shall comply with the following:

a. Operating hours shall not be earlier than ~~98~~:00a.m and be not later than ~~7~~10:00p.m. All areas of the premises, including adjacent public sidewalks, shall be illuminated during hours of darkness so that all areas are readily visible by law enforcement personnel.