



Office of the City Attorney  
Civil Division  
P.O. Box 5021  
Great Falls, MT 59403  
Tel: 406-455-8578  
Fax: 406-727-0005

David G. Dennis  
*City Attorney*  
Rachel A. Taylor  
*Deputy City Attorney*  
Robin L. Beatty  
*Paralegal*

---

April 26, 2024

Mack Ethington  
M and D Retail Montana 2, LLC dba Wild West Wellness  
725 1<sup>st</sup> Avenue North  
Great Falls, MT 59401

BY HAND DELIVERY AND EMAIL

Christopher Young  
Gravis Law  
421 West Mendenhall St.  
Bozeman, MT 59715

Re: Cease and Desist Demand

Dear Mr. Ethington and Mr. Young:

This letter shall serve as notice to your client, M and D Retail Montana 2, LLC dba Wild West Wellness (“Wild West”), from the City of Great Falls, that Wild West is to immediately discontinue business operations at its 725, 1<sup>st</sup> Ave. N., Great Falls, Montana location.

*SIC Revocation.* Wild West’s Safety Inspection Certificate, which is required to operate a business in the City of Great Falls, was revoked by letter dated March 31, 2023. City Manager Greg Doyon instructed Wild West to submit a new application by April 7, 2023. Wild West did not submit a new SIC application; nor did Wild West provide detailed information on the products it was selling to the public. Rather, in a letter from counsel, Wild West simply disagreed with the City, asserting that “head shop” was an accurate description of its business. As such, Wild West’s original SIC remains in a revoked status.

*Zoning Determination.* Following the revocation of Wild West’s SIC, and relying on Wild West’s assertions that its products were solely “hemp-based” and not marijuana products, the City agreed to conduct a zoning determination. To that end, on January 12, 2024, counsel for Wild West submitted an official request for a zoning determination. In its

submission, Wild West argued that its activities were appropriate for a C-4 zoned district because it was engaged in “retail sales.” In the alternative, Wild West argued that, at a minimum, its business was most similar to “off-site liquor sales” and therefore, its business was appropriate for a district zoned C-4. Wild West’s argument hinged on its assertion that its products were not “marijuana,” were not regulated by the State of Montana, and were not subject to the City’s marijuana zoning rules.

On February 2, 2024, Brock Cherry, Director of Planning and Community Development for the City of Great Falls issued a zoning determination for Wild West’s operations. That determination provided as follows:

The Planning and Community Development Staff has concluded that the described use is most similar to that of a marijuana dispensary in terms of operation, regardless of the applicant’s claim of not selling a “marijuana” product.

Wild West did not contest or appeal the zoning determination, but rather, requested guidance from City staff as to what it needed to change to be compliant with the City’s zoning code.

*Investigation/Sale of Marijuana Products.* While considering Wild West’s request for additional guidance, City staff learned that the Cannabis Control Division of the Montana Department of Revenue (“CCD”) had conducted testing on a number of Wild West products, and that those tests revealed that the products constituted “marijuana products” as defined by Mont. Code Ann. § 16-12-102(24). Specifically, on August 25, 2023, the CCD obtained samples of a product called Blue Raspberry Gummies from Wild West’s Great Falls location. Lab testing confirmed that the product contained 10.4 Mg of Delta-9 THC per 5 gr. serving. On December 14, 2023, CCD obtained samples of a product labeled “Wedding Cake” and a product labeled “Miracle Alien” from Wild West’s Great Falls’ location. Testing of the products by the Montana Dept. of Agriculture determined that the Delta-9 THC concentrations of the products were .56% and .69% respectively (exceeding the .3% limit on the exemption for “hemp” products).

Following receipt of the testing results from CCD, the Great Falls City Attorney’s Office conducted its own investigation of Wild West Wellness’ Great Falls location. On February 9, 2024, City staff purchased samples of four products sold by Wild West: Mango Gummies, Blue Raspberry Gummies, Pineapple Exp. Flower, and Granddaddy Purple F-roll. Testing of the Mango Gummies and Blue Raspberry Gummies by the Montana Dept. of Agriculture yielded Delta 9 THC concentrations of 8.1 mg and 10.8 mg per 5 ounce serving, respectively.

CCD also conducted testing of products purchased from Wild West’s Billings location. Though obtained from Wild West’s Billings store, each of these products are contained in the list Wild West provided to the City of Great Falls of products available in Wild West’s Great Falls store. The test results for the products were as follows:

April 26, 2024

Page 3 of 3

<u>Product</u>	<u>Delta 9 THC-(5 Gr. Serv.)</u>	<u>Delta 9THC %</u>
Strawberry Gummy	8.32mg	
Watermelon Gummy	11.8mg	
Purple Mimosa Flower		.63%
Chocolate Biscotti Flower		.65%
Granddaddy Purple F-Roll		1.45%

For well over a year Wild West Wellness' management and legal counsel have asserted to City staff that its products constitute "hemp," not marijuana, and therefore, Wild West is not required to be licensed by the Department of Revenue, and it is not subject to the City's zoning requirements for recreational marijuana sales. Clearly, Wild West Wellness has deliberately and intentionally misled the City of Great Falls.

Further, not only is Wild West selling marijuana products without a license, in an area of the City of Great Falls not zoned for such business, at least two of Wild West's products (Watermelon Gummy and Raspberry Gummy), when tested, exceeded the per-serving THC limits allowed under Montana law *for products sold by licensed dispensaries*.

Therefore, effective immediately, Wild West Wellness is to cease and desist any and all business activities at 725 1<sup>st</sup> Ave. N., Great Falls, Montana. If Wild West fails to cease and desist operations immediately, the City of Great Falls will seek injunctive relief, along with fines, penalties and attorney fees and costs, as allowed by law.

Sincerely,

*David G. Dennis*

David G. Dennis

City Attorney

City of Great Falls