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Re: Lisbon Cannabis Company's Medical Marijuana Establishment License

Dear Council Members:

I am writing on behalf of 207 Edibles, LLC, regarding the application by Lisbon Cannabis Company ("Lisbon Cannabis") for a medical marijuana establishment license. 207 Edibles urges the Council to deny Lisbon Cannabis's application. Lisbon Cannabis's application does not comply with the Town's Ordinance on Medical Marijuana Establishments because (1) the application was not timely filed, (2) Lisbon Cannabis does not have landlord permission to operate at 5 Canal Street, and (3) Lisbon Cannabis's premises at 5 Canal Street is in violation of several life safety codes. Under the Town's ordinance, the Council

must deny the application, as the Ordinance does not give the Council the legal authority to approve an application under these circumstances.

I. Background

As you are aware, Lisbon Cannabis and 207 Edibles occupy the same building at 5 Canal Street, which is owned by Riverbend Investment Properties, LLC ("Riverbend"). Lisbon Cannabis's sole member, Jason Smith, and 207 Edibles' sole member, Lorelei Hilliker, are the co-managers of Riverbend.

In May of 2024, the Town Council approved Lisbon Cannabis's application for license renewal, without a hearing and without consent from Riverbend. For these reasons, Ms. Hilliker requested that the Town re-consider Lisbon Cannabis's license approval. In October of 2024, the Town Council considered whether to suspend or revoke Lisbon Cannabis's license but declined to do so.

On January 14, 2025, Mark Stambach, a Town Code Enforcement Officer ("CEO"), cited Riverbend for twelve violations of the Town Ordinances, and on February 3, 2025, CEO Stambach cited Riverbend for a thirteenth violation. On April 24, 2025, the Town and Riverbend agreed to a Rehabilitation Plan to remedy the remaining violations within a certain timeline. Both Mr. Smith and Ms. Hiilliker consented to the Rehabilitation Plan. As part of the Rehabilitation Agreement, Mr. Smith signed an affidavit that the Town Council could suspend Lisbon Cannabis's license if Riverbend fails to meet any of the obligations in the Rehabilitation Agreement

On February 12, 2025, Lisbon Cannabis filed an application to renew its medical marijuana license.

On February 18, 2025, the Town Council considered 207 Edibles' application to renew its medical marijuana license, which was denied due to the ongoing violations at 5 Canal Street.

II. Issues with Lisbon Cannabis's Application

A. 207 Edibles's interest in the application.

Before diving into the reasons why the Council should deny Lisbon Cannabis's application, I will briefly explain why this matters to 207 Edibles. The Town is likely aware that the owners of 207 Edibles and Lisbon Cannabis are co-owners of 5 Canal Street, the building in which both businesses operate (this building is owned by Riverbend). Section 10-605(8) of

the Town ordinance requires "written consent of the owner of the premises for such use if the applicant is not the owner." Riverbend has not provided written consent to Lisbon Cannabis, as its Limited Liability Company Agreement requires consent from both Mr. Smith and Ms. Hiilliker. Furthermore, Ms. Hiilliker operated a medical marijuana establishment at the 5 Canal Street premises, but her license was not renewed because of the ongoing violations at 5 Canal Street. If the Town approves Lisbon Cannabis's license while the violations remain ongoing, it will suggest discrimination against Ms. Hiilliker.

B. Lisbon Cannabis is currently operating in violation of the Town's Code.

Before addressing the reasons why the Council cannot approve Lisbon Cannabis's application, we note that Lisbon Cannabis should not have been permitted to operate after February 8, 2025; in doing so, Lisbon Cannabis violated the Town's medical marijuana ordinance, and should be subject to an enforcement action by the Town.

Section 10-604 of the Town's ordinances requires that an application for renewal be submitted at least ninety (90) days prior to expiration of the existing license. It then states that "[a]ny licensee that fails to submit a renewal application by the applicable deadline **shall not have authority to operate until a license is granted**." (emphasis added). Lisbon Cannabis's existing license expires May 8, 2025, which means the application should have been filed on or before February 8, 2025; Lisbon Cannabis did not file the renewal until February 12, 2025. By continuing to operate after February 8, 2025, Lisbon Cannabis is in plain violation of this ordinance.

In a memorandum dated April 29, 2025, Lisbon Cannabis's attorney, Jonathan Berry suggested that "the Code implicitly recognizes the authority of an existing licensee, who has filed an application for renewal of its existing license to continue its operations, subject to conditions imposed by the Town, unless or until the conditions are met and/or the application is denied." Attorney Berry's interpretation is irrelevant; where the ordinance is explicit, there is no need to seek alternative, implicit, meaning.

Even if you ignore Lisbon Cannabis's failure to timely file its application, 5 Canal Street is the subject of ongoing violations of the Town's ordinance, including life safety, electrical, plumbing, building, and zoning codes. Under Section 10-610 of the ordinance, an application for a medical marijuana establishment shall be denied if the applicant fails to meet the requirements of the ordinance. Section 10-605(9) of the ordinance requires that an application include evidence of land use approvals required to operate the establishment, including a certificate of occupancy. Lisbon Cannabis cannot meet this requirement due to the ongoing violations at 5 Canal Street.

In a memo from Town Manager Glenn Michalowski dated May 6, 2025, Mr. Michalowski appears to indicate that the affidavit signed by Mr. Smith satisfies the requirements that 5 Canal Street be in compliance with the Town's ordinances. However, there is no legal support for the Town Council to rely on Mr. Smith's affidavit to satisfy the requirements in the Town's Ordinance on medical marijuana establishments. For this reason, Lisbon Cannabis's application fails to meet the requirements in the ordinance, and must be denied.

Additionally, Lisbon Cannabis has failed to obtain consent from Riverbend to operate at 5 Canal Street in violation of Section 10-605(8), which requires "written consent of the owner of the premises for such use if the applicant is not the owner." Riverbend is the owner of 5 Canal Street, and Section 6.2 of Riverbend's Limited Liability Company Agreement requires consent from both managers. Ms. Hilliker has not consented to Lisbon Cannabis's use of the premises, and Lisbon Cannabis is thus not in compliance. For this reason alone, the application must be denied.

C. The Town's Policy Prevents Issuance of Lisbon Cannabis's License

Even if the Town Council ignores the violations of the Town's ordinance, issuing the license would be in direct contravention to the Town Council's own policies and would indicate discrimination against applicants who are not Lisbon Cannabis.

In late 2024, when 207 Edibles sought to renew its medical marijuana establishment license, Glen Michalowski, the Town Manager, explained via email that staff would recommend that the Town Council deny 207 Edibles' license renewal because of the ongoing violations at 5 Canal Street. He stated that "the Town cannot support issuing a license to operate until all NOVs are fully resolved. . ." At the Town Council meeting on February 18, 2025, the Town Council denied 207 Edibles' medical marijuana establishment license *because* of these ongoing violations. Councilors discussed the optics of approving 207 Edibles' application when violations persisted, and of denying the application when the Council had declined to revoke Lisbon Cannabis's at the October 2024 meeting, despite the existence of violations at that time.

The Town Councilors' discussion, which begin at 1:17:00 in the recording of the February 18th meeting, are especially relevant in the context of the review of Lisbon Cannabis's application. In that February 18th meeting, Councilor Albert asked why the ongoing violations at 5 Canal Street should impact 207 Edibles' license when they were not relevant in the October 2024 review of Lisbon Cannabis's license, arguing "[w]e are saying that two businesses that do similar things, that are pretty close in selling their wares, and one meets, as recently as October, and now we are saying 'we can't do this because...' it reeks to high heaven, I am not trying to be a drama queen—it stinks—and there's no good way that in good conscious I understand—we may be breaking our own ordinance, and might be

violating my oath, I'm still voting to approve the license tonight. This is about plain and simple, how can we as a governing body and look at us with a straight face when we did that last year twice?" If the Town seeks to apply the ordinance uniformly, they have the opportunity to do so now by recognizing that the violations that precluded 207 Edibles' application likewise preclude Lisbon Cannabis' application.

Also relevant are Councilor Barnard's comments from the February 18th meeting, where he argued ". . . there is continued work that needs to get done to make sure these processes are fair and equitably done, that permits are issued appropriately, that ordinances are followed from the beginning." Councilor Barnard continued, "[a]s recently as this past October, we were not following our own rules, I don't know why that's happening but that has to stop and we have to create a system where companies get on the right side of things before we get to this point of voting to open or close them. . . When we are doing some things for some companies and not others, I don't think we have the proper attitude at all." We agree with this sentiment, and suggest that the only way to ensure that the processes are fair and equitably done is to apply the same standard to Lisbon Cannabis's application as was applied to 207 Edibles' application—no license when violations persist.

III. Conclusion

For the reasons outline above, we request that the Town Council recognize that, by the plain language of the Town's ordinance, the ongoing violations at 5 Canal Street preclude approval of Lisbon Cannabis's application.

Sincerely,

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