Town Council of the Town of Lisbon

Notice of Decision and Findings of Fact, Conclusions of Law and Decision

After Hearing re: Application for Renewal of a Medical Marijuana Establishment License

The Town of Lisbon enacted Article XI, regarding Medical Marijuana Establishments, of chapter 10 of the Town of Lisbon Code of Ordinance (the Code), as authorized by 30-A M.R.S. § 3001 and 22 M.R.S.A. § 2429-D.

On April 27, 2025, the Lewiston Sun-Journal published notice of a Tuesday May 6, 2025, public hearing to consider a business license for Lisbon Cannabis (Medical Marijuana Retail License). That day, Council Vice-Chair Chris Camire presided over a public hearing, with Councilor Norm Albert, Councilor Jeremy Barnard, Councilor Nicholas Craig, Councilor JoJean Keller, Councilor Mark Lunt, Town Attorney Michael Carey, Esq., and Town Manager Glenn Michalowski also present. Councilor Fern Larochelle abstained from the hearing and left the dais.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

On the basis of evidence and argument from the May 6, 2025 public hearing, including a copy of the completed Application; a Town Manager's memorandum summarizing the issues and containing staff's recommendation for approval; the Applicant's presentation which included a copy of the License, an affidavit from the Applicant's President, Jason Smith, a copy of a rehabilitation plan submitted by Mr. Smith by authority of the building's owner, four additional documents introduced as exhibits at the public hearing, oral testimony from Mr. Smith, written argument from the Applicant's attorney, Jonathan Berry, Esq., regarding the effect of failing to present a timely application for renewal, and oral argument from Attorney Berry; public comment from 207 Edibles, another business at 5 Canal St., both in writing from Kate Hambley, Esq., an

attorney for 207 Edibles, and orally from Lorelei Hilliker, its owner, and Attorney Hambley on behalf of both 207 Edibles and Ms. Hilliker; and; Town Manager's comments, the Town Council makes findings of fact and conclusions of law, as follows:

I. Findings of Fact

1. Jason Smith owns Lisbon Cannabis Company (the Applicant) and is its President.

2. On May 8, 2024, the Lisbon Town Clerk issued License number 85 to the Applicant to operate a Marijuana-Medical Retail establishment at 5 Canal Street, Lisbon Falls. The face of the license indicates that it expires on May 13, 2025.

3. On February 12, 2025, the Applicant filed an application for the renewal of license number 85 (the Application).

4. The Applicant's establishment is located on the first floor of the building at 5 Canal Street, Lisbon Falls (the Premises).

5. Riverbend Investment Properties, LLC (Riverbend) holds a deed to 5 Canal Street. Jason Smith and Ms. Hilliker each own a 50% membership interest in Riverbend; and each is one of the two Riverbend managers.

6. In the past, 207 Edibles operated a licensed establishment on the second floor at 5 Canal Street.

7. The Code Enforcement Officer / Building Inspector, the Fire Chief/ Health Officer, and Police Chief inspected 5 Canal St.—both the Premises and the second floor. The Fire Chief and Code Enforcement Officer found that the Premises do not comply with the life safety code. The Code Enforcement Officer / Building Inspector also found that Premises do not comply with the electrical, plumbing, building, and zoning codes.

8. The Fire Chief and the Code Enforcement Officer / Building Inspector provided a list of Code violations that affect the Premises, which include that:

a. The length of the travel distance from portions of the interior first-floor space to the exit exceeds 75 feet;

b. No permit was secured for the installation of the electrical system at 5 Canal St.;

c. No permit was secured for the installation of the plumbing system at 5 Canal St.;

d. No building permit was secured for the construction associated with the finishing of the interior space and change of uses; and

e. No permit was secured for the installation of the signs on the exterior of the building at 5 Canal St.

9. On April 10, 2025, Mr. Smith and Ms. Hilliker, the members and managers of Riverbend, signed a corporate consent that authorized Mr. Smith on behalf of Riverbend to enter into a Rehabilitation Agreement with the Town to remedy the Code violations.[1] The consent also authorized entry into the second floor at 5 Canal St. to resolve the Code violations.

10. Mr. Smith and the Town entered into the attached Rehabilitation Agreement, which includes an Exhibit A entitled "Obligations and Deadlines" and requires Riverbend to remedy the Code Violations at 5 Canal St. by meeting the specific Obligations on or before aggressive but attainable Deadlines.

11. On April 23, 2024, Mr. Smith executed and delivered an affidavit, with the same "Obligations and Deadlines" attached thereto as Exhibit A, in which he swore that there were six violations of Lisbon Code at 5 Canal St. By the affidavit, Mr. Smith consented to a license suspension if Riverbend does not meet any one of the Deadlines.

[1] The Rehabilitation Agreement includes the remedy of a sixth Code violation noticed by the Town that affects the use of the 207 Edibles second-floor space.

12. Mr. Smith requested that the Town Council renew license number 85 because the Rehabilitation Plan contains aggressive deadlines to attain compliance with Lisbon Code and to make the Premises safer.

13. Staff recommended that the Council approve the Application because this is a unique situation, the Rehabilitation Plan provides that the required approvals to operate the medical marijuana establishment at the Premises will be applied for, the Rehabilitation Plan is secured by a court order which includes significant civil penalties, and Mr. Smith's consent to license suspension in the event any Deadline is not met is another powerful remedy to secure compliance.

14. An electrical permit, a plumbing permit, a building permit, a change of use permit, and a sign permit are required for the building at 5 Canal St. for the operation of a retail medical marijuana business at the Premises.

15. The building inspector, code officer, and fire chief have not verified that the premises at which the establishment will be located complies with all applicable town ordinances.

II. Conclusions of Law

16. "A license application for a medical marijuana establishment shall be denied by the town council. . . if the applicant, or any owner of the applicant or licensee: (1) [f]ails to meet the requirements of this ordinance. . .(5) [h]as not acquired all necessary state and local approvals prior to issuance of the license. . ." Lisbon Code of Ordinances section 10-610.

17. A license applicant must show by the preponderance of the evidence that it "complies with the requirements of this article." *See e.g.*, *id.* 10-607(2).

18. An application "shall be denied by the town council. . . if the applicant, or any owner of the applicant or licensee. . .[h]as not acquired all necessary state and local approvals prior

to issuance of the license. . ." *Id.* 10-610(5). Similarly, *second*, after inspection, the building inspector, code officer, and fire chief shall verify that the premises at which the establishment will be located complies with all applicable town ordinances. *Id.* 10-606(9). *Third*, the Council shall deny the license application if it "fails to meet the requirements of this ordinance," *id.* 10-610(1), which include that an application shall include "evidence of all land use approvals or conditional land use approvals required to operate the medical marijuana establishment, or applications that have been filed and are pending for the required approvals, including but not limited to building permit, conditional or special use approval, change of use permit and/or certificate of occupancy," *id.* 10-605(9).

19. Denial of the Application is proper because, as of the date of the hearing, the Premises lacks an electrical permit, a plumbing permit, a building permit, a change of use permit, and a sign permit; and no permit applications have been filed or are pending.

20. Denial of the Application is also proper because, as of the date of the hearing, a fire safety issue remains unsatisfied, specifically the length of the travel distance from portions of the interior first-floor space to the exit exceeds 75 feet.

IV. Decision

On May 13, 2025, the Town Council voted 6-0, with Council Vice-Chair Chris Camire, Councilor Norm Albert, Councilor Jeremy Barnard, Councilor Nicholas Craig, Councilor JoJean Keller, Councilor Mark Lunt voting in the affirmative, and with Councilor Fern Larochelle abstaining from the vote, to: 1) **deny the Application for renewal of license number 85**; and 2) adopt this Notice of Decision and Findings of Fact and Conclusions of Law.

This Notice of Decision and Findings of Fact, Conclusions of Law and Decision may be appealed to Superior Court within 30 days, pursuant to Maine Rule of Civil Procedure 80B and section 10-615 of the Lisbon Code of Ordinances.

Dated: May 13, 2025

By the Town of Lisbon Town Council:

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Council Vice-Chair Chris Camire

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Councilor Norm Albert

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Councilor Jeremy Barnard

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Councilor Nicholas Craig

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Councilor JoJean Keller

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Councilor Mark Lunt

ABSTAINED
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Councilor Fern Larochelle