

CITY OF KEENE

CONGREGATE LIVING & SOCIAL SERVICES LICENSING BOARD

RULES OF PROCEDURE

I. GENERAL RULES

- A. **Authority:** These Rules of Procedure (“Rules”) for the City of Keene Congregate Living and Social Services Licensing Board (“Board”) are adopted in accordance with Chapter 2, Division 24 of City of Keene Code of Ordinance.
- B. **Purpose:** The purpose of these rules is to provide guidance to the City of Keene Congregate Living and Social Services Licensing Board and all persons participating in proceedings held before the Board, and to allow for the orderly and efficient handling of all matters within the jurisdiction of the Board. These rules are designed so that all parties interested in an application will be allowed a reasonable opportunity to fully participate and share their views, facts, evidence, and opinions for the Board’s consideration in reaching an appropriate decision. The Board is authorized to vote in making decisions on applications for congregare living and social services licenses in accordance with Chapter 46, Article X of City Code of Ordinance to vote to suspend, revoke, or make provisions on previously approved Congregate Living and Social Services conditional use permit in accordance with Article 15 of the City Land Development Code.
- C. **Membership:** The Congregate Living and Social Services Licensing Board shall consist of five regular members. At least three of the regular members shall be residents of Keene. One member shall be an administrative official of the city who need not be a resident of the City of Keene. In no instance shall city staff in a code enforcement or law enforcement role serve on this Board. One member may be a member of the Planning Board. Members are expected to attend each meeting of the Board to exercise their duties and responsibilities. Any member unable to attend a meeting shall notify the Clerk as soon as possible. Members, including the Chair and all officers, shall participate in the decision-making process and vote to approve or disapprove all motions under consideration.
- D. **Officers:**
- a. A Chair shall be a regular Board member elected annually, by a majority vote of the Board in the month of January, or as soon thereafter as is reasonably possible. The Chair shall preside over all meetings and hearings, and shall sign documents in the name of the Board.

- b. A Vice-Chair shall be a regular Board member elected annually by a majority vote of the Board in the month of January, or as soon thereafter as is reasonably possible. The Vice-Chair shall preside in the absence of the Chair and shall have the full powers of the Chair on matters that come before the Board during the absence of the Chair.
 - c. A Clerk (who shall not be a Board member) shall be appointed by the City of Keene Community Development Director, to maintain a record of all meetings, transactions, and decisions of the Board, and otherwise assist the Board.
 - d. The Chair and Vice-Chair shall serve for a one-year term and shall be eligible for re-election, and shall continue to serve until annual elections are next held.
- E. **Meetings:** Regular meetings shall be held in Council Chambers, 3 Washington Street, Keene, New Hampshire, at 6:00 p.m. on the fourth Tuesday of each month unless otherwise duly noticed by the Clerk. Other meetings may be held on call of the Chair provided public notice is duly posted and notice to each member is given at least twenty-four (24) hours, excluding Sundays and legal holidays, prior to such meeting, in accordance with RSA 91-A:2, II.
- a. **Quorum:** A quorum for all meetings of the Board shall be three members.
 - b. **Voting:** Unless otherwise required by law, all actions before the Board shall require only a majority vote of those members acting on any matter. All members hearing a matter shall vote; abstention shall not be allowed. In the event of a three (3) member Board, the concurring vote of all three (3) members shall be required to take any action on any matter properly before the Board.
 - c. **No Public Hearings to Open After 10:00 p.m.:** The Board shall not open a new or continued public hearing after 10:00 p.m.
 - d. **Disqualification:** If any member finds it necessary to disqualify himself from sitting in a particular case, he shall notify the Chair and Clerk as soon as possible. When there is uncertainty as to whether a member should be disqualified to act on a particular application, that member or another member of the Board may request the Board to vote on the question of disqualification. Any such request shall be made before the public hearing gets underway. The vote shall be advisory and non-binding.
 - i. Either the Chair or the member disqualifying themselves before the beginning of the public hearing on the case shall announce the disqualification. The disqualified member shall absent themselves from the Board table during the public hearing and during all deliberation on the case.
 - ii. Any interested person appearing in a proceeding, having any information or reason to believe that a Board member should be disqualified, shall notify the

Chair as soon as reasonably possible, and in any event before the commencement of such public hearing.

- iii. Any Board member or other interested party may, prior to the commencement of any public hearing, request the Board to make the determination as to whether or not such Board member should be disqualified.
- iv. In deciding issues of disqualification, the Board shall be guided by the City of Keene Code of Ordinances §2-1111, *et seq.* (“Conflict of Interest”).
- e. **Order of Business.** The order of business for regular meetings shall normally be as follows:
 - i. Call to order by the Chair
 - ii. Roll call by the Chair
 - iii. Minutes of previous meeting
 - iv. Unfinished business
 - v. Public hearings
 - vi. New business
 - vii. Communications and miscellaneous
 - viii. Other Business
 - ix. Non-public session (if needed)
 - x. Adjournment

Note: Although this is the usual order of business, the Board may change the order of business after the roll call in order to accommodate efficiency or the public.

- f. **Nonpublic Sessions:** All deliberations of the Board shall be held in public. Nonpublic sessions shall be held only as necessary and in strict compliance with the provisions of RSA 91-A. The Board may also adjourn, as needed, to meet with its attorney to receive legal advice, which will not constitute a nonpublic session pursuant to RSA 91-A.

II. PROCEDURES FOR FILING APPLICATIONS

- A. **Required Submissions:** To file an application before the Congregate Living and Social Services Licensing Board, the following items are required to be submitted to the Clerk:
 - a. **Application and license renewal requirements:**

The original application forms may be obtained from the Clerk or the Community Development Department. Each application for a hearing before the Board shall be made on forms provided by the Board and shall be presented to the Clerk who shall record the date of receipt over their signature. The forms provided by the City must be used; correctness of the information supplied shall be the responsibility of the petitioner at all times. All forms and fees prescribed herein and revisions thereof shall be adopted by the Board and shall become part of these Rules of Procedure.

- b. **Applications should be identified as one of the following:**
- i. Drug treatment clinic
 - ii. Group home, large
 - iii. Group home, small
 - iv. Fraternity/sorority
 - v. Group resource center
 - vi. Homeless shelter
 - vii. Lodginghouse
 - viii. Residential care facility
 - ix. Residential drug/alcohol treatment facility
- c. The following information shall be required of an applicant for a Congregate Living and Social Services license and may be used by the Board in evaluation of an application and annual renewal for such license.
- i. Description of the property location including street address and tax map parcel number.
 - ii. Description of the client population to be served, including a description of the services provided to the clients or residents of the facility and of any support or personal care services provided on- or off-site.
 - iii. Description of the size and intensity of the facility, including information about: the number of occupants, including residents, clients, staff, visitors, etc.; maximum number of beds or persons that may be served by the facility; hours of operation; size and scale of buildings or structures on the site; and size of outdoor areas associated with the use.
 - iv. For congregate living uses, the average length of stay for residents/occupants of the facility.
 - v. Name, phone number, and address of the property owner.
 - vi. Name, phone number, and address of a person acting as the operator, if not the owner, who will serve as a point of 24-hour contact for the public and the city.
 - vii. Evidence that all required licenses, permits or authority to operate have been obtained.
 - viii. An operations and management plan, which shall be based on industry standard "best management practices" and, at a minimum, shall address the following.

a. A security plan that includes provisions for onsite security including lighting, security cameras, and/or other measures appropriate to provide for adequate health and safety of clients and management.

b. A life safety plan that demonstrates compliance with the state minimum building code and fire codes.

c. Staff training and procedures plan.

d. Health and safety plan.

e. An emergency response plan that establishes procedures for addressing emergency situations and for coordinating with local emergency service providers.

f. A neighborhood relations plan that includes provisions for communicating with adjacent property owners and the City of Keene, including the Keene Police Department.

g. Building and site maintenance procedures.

h. In addition to the materials listed above, homeless shelters shall be required to submit the following information as part of an operations and management plan.

1. Rules of conduct and registration system for guests, including procedures for screening registered sex offenders and for separating individual guests and families with children.

2. Policies and procedures for denying access to the homeless shelter when at maximum capacity or the determination that a person is unsuited for the facility, and how the immediate sheltering needs of individuals who may be turned away from the shelter will be handled.

d. **Inspections as Evidence:** The Board will also consider as evidence in any proceeding, the required inspection of the subject property, and the owner of the affected land implicitly consents to inspections of property and building by City staff as required and is outlined in Section 467-564.

B. Other Requirements:

a. **Persons Authorized to Submit Applications:** To submit a proper application, an applicant must be one of the following persons:

i. The title or record owner of the subject property, or such owner's duly authorized agent.

- ii. The holder of a valid Purchase & Sales Agreement or the holder of a valid Option for the purchase of the subject property (with a signed written consent of the title or record owner of such property, or such owner's duly authorized agent.)
- b. **Documentation of Title or Authority to Apply:** The Board may require the holder of record title to submit documentary evidence as to petitioner's title and holders of purchase and sale agreements or options may be required to submit evidence that they are valid holders of such agreements before the Board will consider their application.
- c. **Inadequate Application:** Any applicant who submits an application, plans and/or exhibits that are deemed inadequate by the Board shall have the petition tabled until such time as the Board receives adequate plans or exhibits and application. The Clerk will perform a completeness review of all documents at time of submittal. Any application determined to be incomplete shall not be submitted to the Board until complete.
- d. **Deadline for Filing:** All required information under these rules must be submitted to the Clerk before the scheduled deadlines to be adopted by the Board ("submittal deadline"). The application will not be placed on the Agenda until all of the required information is received.
- e. **Notification to Public:** The Clerk will set a date, time, and place for a public hearing and shall notice of the date, time and place of the public hearing will be posted in accordance with NH RSA 91-A:2.II the public hearing shall be held within thirty (30) days of the receipt of a properly completed application.
- f. **Fees:** The petitioner shall pay to the Clerk a non-refundable application fee as set forth in the schedule of fees in Appendix B of the City Code of Ordinances.
- g. **Procedural Compliance:** Unless any objection is specifically raised or procedural defect otherwise noticed during a public hearing, the Board shall assume that any application has been properly filed and that due notice has been given as required by these Rules of Procedure, Keene's City Ordinance and State statues.
- h. **Supplemental Information:** Any information and/or evidence that is provided after the submittal deadline may result in a continuation of the public hearing in order to allow the Board an opportunity to review the information and/or evidence and/or to have City staff, legal counsel, or other interested persons review and provide input or advice to the Board in regards to such information and/or evidence.

III. CONDUCT OF PUBLIC HEARINGS

- A. **General Procedures:** Unless otherwise directed by the Chair, public hearings shall proceed as follows:

- a. The Chair shall call the hearing in session, introduce the Board members, and review the previous meetings minutes for corrections.
- b. The Chair shall read the application and report on how public notice and personal notice were given and where appropriate, summarize the legal requirements that must be met by the applicant in order to obtain the relief requested.
- c. The Chair will ask the Staff Liaison to report on the first case, identified by case number.
- d. Members of the Board may ask questions at any point during testimony.
- e. Each person who appears shall be required to state his name, address, and indicate whether he is a party to the case or an agent or counsel of a party to the case.
- f. Any member of the Board, through the Chair, may request any party to the case to speak a second time. The Chair may impose reasonable time restrictions on individuals who wish to speak.
- g. Any party to the case who wants to ask a question of another party to the case must do so through the Chair.
- h. The applicant shall be called first to present his application.
- i. At the discretion of the Chair, all persons desiring to be heard will be allowed to speak provided that
 - i. such testimony shall not be redundant or duplicative of prior testimony or information received by the Board, and
 - ii. such testimony is relevant to the matter being heard.
- j. All parties desiring to be heard on any matter shall be considerate of all other persons regardless of their position on the matter and shall conduct themselves in a polite and courteous manner.
- k. The Board shall hear with interest any relevant evidence that pertains to the facts of the case or how the facts relate to the provisions of the license criteria.
- l. Those appearing in favor of the application shall be allowed to speak.
- m. Those in opposition to the application shall be allowed to speak.
- n. The applicant and those in favor shall be allowed to speak in rebuttal.
- o. Those in opposition to the application shall be allowed to speak in rebuttal.

- p. After all parties have been afforded a reasonable opportunity to testify, the public hearing shall be declared closed by the Chair and no further testimony will be received from the applicant or any other parties (other than minor technical or procedural information as may be needed from City staff), unless the Board, on its own motion, shall reopen the public hearing to receive additional testimony or information. If the hearing is reopened, all interested parties shall be given the opportunity to speak to the issue requiring the reopening. All deliberations and decisions made by the Board shall continue to be conducted in public. The Board shall, when appropriate, render findings of fact.
- B. **Voting:** Except as determined by the Board, the Board shall decide all cases immediately after the public hearing. Prior to voting the action, the Board shall render as appropriate, the criteria as outlined in Section 46-565 of the City Ordinance by majority vote. The Board will approve, renew or deny a congregate living and social services license application.
- C. **Decisions:** Notice of the Decision will be made available for public inspection within five (5) business days, and will be sent to the applicant by regular mail. If the application is denied, the notice shall include the reasons therefore. The notice shall also be given to the Planning Board, the Community Development Department, Assessor, and other City officials as determined by the Board. Decisions shall be based upon
- a. all relevant facts and evidence introduced at the public hearing
 - b. the application
 - c. the City Ordinances
 - d. applicable law
- D. **Records:** The records of the Board shall be kept by the Clerk and made available for public inspection at the Community Development Department.
- a. Final written decisions will be placed on file and available for public inspection within five business days after the decision is made.
 - b. Minutes of all meetings, including names of Board members, persons appearing before the Board, a brief description of the subject matter, and a brief statement of Board's deliberations, findings made and decisions reached, shall be open to public inspection within five business days of the public meeting, except as provided in RSA 91-A:2, II.
 - c. The official record of the Congregate Living and Social Services Licensing Board proceedings shall be the minutes after they have been approved (with corrections, if required) by the Board at a subsequent meeting.

- d. If an applicant fails to appear to present an application to the Board at the noticed public hearing, the application may be dismissed with prejudice absent unusual circumstances. The applicant upon twenty-four (24) hours of notifying the Clerk of such intention to withdraw may withdraw an application without prejudice. In order for the Board to consider the same matter, after an application has been either dismissed or withdrawn, the applicant will have to file a new application and fees pursuant to these Rules.

IV. POST HEARING MATTERS

- A. **Motion for Rehearing:** For the purposes of this article, any person aggrieved by the decision of the Board shall first file a motion for a rehearing to the Board within thirty (30) calendar days after the date of the Board decision. For purposes of this section, "person aggrieved" includes any license applicant, or any person or entity directly affected by the Board decision.
 - a. The motion for rehearing shall fully set forth every ground upon which it is claimed that the decision rendered is unlawful or unreasonable. No ground not set forth in the motion for rehearing shall be urged, relied on, or given any consideration by the City Council on an appeal to the City Council, unless the City Council for specific good cause shown, shall allow the moving person aggrieved to specify additional grounds.
 - b. The Board shall deliberate the motion for rehearing within thirty (30) calendar days of the date of the filing of the motion.
 - c. If the Board grants a motion for rehearing, the new public hearing shall be held within thirty (30) calendar days of the decision to grant the rehearing and be subject to the procedures as stated in this article.
 - d. If a motion for rehearing is denied by the Board, the person aggrieved may appeal to the City Council within thirty (30) calendar days after the date upon which the Board voted to deny the motion for rehearing.
 - i. The person aggrieved shall fully set forth in the appeal every ground which the person claimed to the Board in the motion for rehearing that the Board's decision was unlawful or unreasonable. The appeal shall be filed with the office of the City Clerk, with a copy of the appeal provided by the person aggrieved to the Board.
 - ii. The Board shall transfer to the City Clerk the complete record of the proceedings held before the Board. The City Clerk shall place the appeal on the City Council agenda, and transmit the record of the Board to the City Council.
- B. **Conduct of a Rehearing:** In the event the Board grants a Motion For Rehearing, an entirely new public hearing must be advertised and appropriate notice given as required in these rules

and at the expense of the party who moved for the rehearing. At the public hearing held on the rehearing, all evidence is to be considered and the hearing is to be conducted in the same manner as the original hearing in accordance with these Rules. At the discretion of the Chair, however, part or all of the testimony, exhibits and information introduced at the original public hearing or hearings may be incorporated in and become a part of such new proceeding; if part or all of the prior evidence is so incorporated, the Chair may also make appropriate limitations on the introduction of additional testimony and evidence so as not to unduly duplicate or delay the new proceeding. In exercising such discretion, the Chair should be guided by the scope of evidence previously received, the adequacy of the minutes and record, and the Board composition at the earlier hearing compared to those attending the rehearing proceeding. If the Board reaffirms its decision after rehearing, the party who moved for the rehearing can then appeal to the City Council.

- C. **Appeal to City Council:** For the purposes of this article, any appeal of a final decision of the Board is to occur before the City Council and shall be in accordance with the process described below. If the Board materially alters the prior decision, any person aggrieved may file a subsequent Motion for Rehearing. Any person aggrieved by a decision of the Board with respect to a subsequent rehearing may appeal to the City Council.
- a. The City Council shall hold a hearing on the appeal within thirty (30) calendar days of the receipt of the appeal by the City Clerk, unless extended by the City Council for good cause shown.
 - b. The burden of proof shall be upon the person aggrieved. All findings of the Board upon all questions of fact properly before the City Council shall be considered lawful and reasonable by the City Council. The decision appealed from shall not be denied, modified or vacated by the City Council, except for errors of law, unless the City Council is persuaded that the decision is otherwise unreasonable.
 - c. The City Council shall allow the person aggrieved or the person's representative, to present the appeal before the City Council; provided, however, that the City Council shall decide the matter based on the record before it.
 - d. The filing of an appeal shall not stay any enforcement proceedings upon the decision appealed from, and shall not have the effect of suspending the decision of the Board.
 - e. The City Council may deny the appeal and affirm the decision of the Board; or vacate the decision complained of in whole or in part and remand the matter to the Board for further consideration with a written decision stating the specific basis for the remand. The decision of the City Council shall be final.

V. MISCELLANEOUS

- A. **Amendments:** These Rules may be amended by a majority vote of the members of the Board, provided that such amendment is read at the meeting immediately preceding the meeting at which the vote is to be taken.

B. **Correspondence:**

- a. All correspondence shall be directed to the Chair of the Congregate Living & Social Services Licensing Board, c/o Building & Health Official, City of Keene, 3 Washington Street, Keene, New Hampshire 03431.
- b. The Clerk, Building & Health Official, or Chair shall sign all documents or communications from the Board.
- c. In the absence of the Chair, for any reason, the elected Vice-Chair shall act in his place.

C. **Adoption:** These Rules were adopted at a regular meeting of the Board on February 22, 2022 and are placed on file with the Clerk, City of Keene.