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SECTION I. Introduction

Part A. Preface.

These rules and regulations supersede any and all prior rules and regulations governing security for housing for the elderly promulgated pursuant to R.I.G.L. § 42-66.1-8. They have been promulgated to provide basic information about the nature of required security systems, personnel and equipment designed to ensure the health, safety and welfare of elderly citizens who are residents of housing for the elderly in Rhode Island.

Pursuant to the provisions of the Administrative Procedures Act, R.I.G.L. § 42-35-3, the following were given consideration in arriving at the regulations: (a) alternative approaches to the regulations; (b) duplication or overlap with other state regulations; and (c) significant economic impact. No alternative approach was identified; nor any duplication, overlap or significant economic impact.

Part B. Program Authority.

The Security for Housing for the Elderly Program is authorized by, and these regulations are promulgated under, the authority of R.I.G.L. § 42-66.1-8, which requires that “Every public and private housing complex designated by the federal government as housing for the elderly in the state shall establish and maintain a security system, approved by the director, by July 1, 1993” and R.I.G.L. § 42-66.1-11, which provides for an administrative penalty for failure to comply with the requirements of R.I.G.L. § 42-66.1-8 and with rules and regulations promulgated under R.I.G.L. § 42-66.1-8

Part C. Nondiscrimination and Civil Rights Policy.

All public and private housing complexes designated by the federal government as housing for the elderly located in the state of Rhode Island shall be responsible for maintaining a policy of nondiscrimination in the provision of security services to residents and in the employment of staff without regard to race, color, creed, national origin, sex, sexual orientation, age, handicapping condition or degree of handicap, in accordance with Title VI of the Civil Rights Act of 1964; the Rhode Island Executive Order No. 92-2, dated January 23, 1992 and entitled “Compliance with the Americans with Disabilities Act”; the United States Executive Order No. 11246 entitled “Equal Employment Opportunity”; the United States Department of Labor Regulations; Title V of the Rehabilitation Act of 1973, as amended; the 1990 Americans with Disabilities Act; R.I.G.L. § 42-87, which states that “Discrimination” includes those acts prohibited on the basis of race by 42 U.S.C. #1981, 1983 and those on the basis of handicap by 29 U.S.C. #794 and those on the basis of disability by U.S.C. #12100 *et seq.* and U.S.C. #12101 *et seq.*, and those on the basis of handicap by R.I.G.L. § 28-5; and the Rhode Island Fair Employment Practices Act.

Part D. Compliance with All Laws, Codes, Rules and Regulations

All public and private housing complexes designated by the federal government as housing for the elderly located in the state of Rhode Island shall be responsible for complying with all local, state and federal laws, codes, rules and regulations that apply to the program or facility.

Part E. Severability

If any provision of the rules and regulations herein or the application thereof to any program or circumstances shall be held invalid, such invalidity shall not affect the provision or application of the rules and regulations which can be given effect, and to this end the provisions of the rules and regulations are declared to be severable.

Part F. Definitions

Whenever used in these rules and regulations, the following terms shall be construed as follows:

“DEA” means the Rhode Island Department of Elderly Affairs.

“Housing for the elderly” means private or public housing complexes designated by the federal government as housing for the elderly located in the State of Rhode Island.

“Director” means the Director of the Department of Elderly Affairs or designee.

“Private housing complex” means housing for the elderly not owned and operated by the local public housing authority.

“Public housing complex” means housing for the elderly owned and operated by the local housing authority.

“Tenant education program” means a program of periodic and ongoing resident education designed to meet the safety and security needs of residents of elderly housing.

“Safety and security plan” means a building plan that addresses the safety and security needs of residents.

“Security personnel” means any personnel providing security services in accordance with these rules and regulations.

“Security equipment” means any mechanical/electrical security devices and/or physical improvements to the building or grounds that would contribute to the overall security and safety of the elderly housing complex.

“Housing complex” means the residential building or buildings, areas designated for use by residents, and grounds leading to and from the building(s) and/or designated areas.

“High crime area” means communities with crime ratios higher than the overall state weighted average for two consecutive years.

“Management” means the representatives of an agency or organization, local government, or a private or nonprofit company who have full and exclusive legal authority for the owner or governing body.

“Security Guard Certification Program” means an eight hour (8-hour) training program utilizing a curriculum certified by the Department and provided by an agency that meets the requirements established by the Department to conduct the training.

“Variance Review Committee” means a group of two (2) Department Housing Program staff and the Assistant Director for Community Programs.

Part G. Variance Process.

The rules governing security for elderly housing are designed so that full compliance is required in order for a certificate of compliance to be granted. It is recognized that there will be need from time to time for a housing complex to bypass a specific rule or rules in order to best accomplish its stated philosophy, goals and purpose. This factor has been taken into consideration in the development of these rules and regulations, and the following procedure is to be used when a housing manager believes there is a compelling need for a variance:

1. Application for a variance, found below must be completed by housing manager and submitted to the Director for review by the Variance Review Committee.
2. Upon receipt of a variance request, the Department will make acknowledgement in writing.
3. Within ten (10) working days of the receipt of the variance request, unless additional time is required to review the program and the reason for the variance, the Variance Review Committee will review the application and return a decision, in writing, to the applicant.
4. If the applicant is dissatisfied with the decision of the Variance Review Committee, an appeal may be made through the process outlined in **Section X Appeals Procedures.**
5. **See Section VII** below for guidance in applying for a specific variance from Rules related to Security Guards.

Variance Application Form

STATE OF RHODE ISLAND

Department of Elderly Affairs
John O. Pastore Center
Benjamin Rush Building #55
35 Howard Avenue
Cranston, RI 02920

Application for Variance from Department Rules Governing Housing Security

The undersigned hereby applies to the Director for a variance in the Application of the Housing Security Rules for _____.

Applicant: _____

Address: _____

Date: _____

Specific Rule(s) to be Varied: _____

Request for Permanent Variance () or Time Variance () Check one.

Detailed Reason(s) for Requesting Variance(s) (Use additional sheet(s) if necessary):

Signed: _____

SECTION II. Statement of Purpose.

In order to ensure the health, safety and welfare of elderly residents of Rhode Island housing for the elderly, the Department has established these rules and regulations to assist in providing security at designated public and private housing complexes. These rules and regulations have been developed in accordance with R.I.G.L. § 42-66.1-8, the Rhode Island Housing for the Elderly Act.

SECTION III. Program Jurisdiction

All public and private housing complexes designated by the federal government as housing for elderly in the State of Rhode Island shall comply with the rules and regulations set forth in this document.

SECTION IV. Requirements for Tenant Education.

Part A. Orientation.

All tenants of Housing for the Elderly shall receive an initial resident education and training security orientation at the time of assuming occupancy.

Part B. Appropriate Languages

Security information shall be provided in languages other than English as necessary. The initial security orientation shall be provided to limited English speaking persons in their native language. Relatives and friends used by non-English speaking tenants as interpreters may provide an opportunity to enable housing managers to provide security orientation without requiring other special arrangements.

Part C. Safety Orientation Checklist

For every elderly housing complex, a safety orientation checklist shall be utilized at the time of occupancy, co-signed by management and tenant, dated and made part of the tenant's permanent file. The safety orientation checklist shall be signed by the resident upon completion shall contain the following elements:

General Precautions:

1. Keeping doors and windows secured;
2. Being familiar with:
 - a. Pull cords, lock systems and intercom systems
 - b. Security measures and policies concerning keys/duplicate/cards
 - c. Emergency exits and fire doors
 - d. Fire/Safety evacuation procedures
 - e. Smoke and fire alarms
 - f. Emergency phone numbers
 - g. Security systems, including guards and devices
 - h. Introduction to building personnel, and;
3. Other responsibilities for personal safety, including:
 - a. Handling newspapers and mail
 - b. Rubbish and recycling safety measure

- c. Handling delivery and repair service
- d. Soliciting procedures.

Security Procedures:

- a. Using entrance keys/cards;
- b. Entrance procedures concerning visitors;
- c. Storage areas;
- d. Mail boxes;
- e. Using common areas;
- f. Awareness of current safety provisions;
- g. Safety procedures in emergencies;
- h. Locking the car and not leaving any personal property of value in the car when not in use;
- i. Safety procedures concerning care and parking lot, and;
- j. Handbags, billfolds carried on person.

Information About the Neighborhood

- k. Available services of local financial institutions (including safe deposit boxes for valuables);
- l. Use of public/common areas on an off the housing complex property including, but not limited to: “Prohibition of Smoking in Public Spaces” (R.I.G.L. § 23-20.10), and;
- m. General orientation concerning a local neighborhood and areas to avoid.

Reporting Procedures

- n. Responsibilities of management, security personnel and police, and;
- o. Learning how and when to report any trouble or suspicious occurrences to management, security personnel, or police.

Part D. Required Time Intervals for Tenant Education

Tenant education (that which is offered after the initial orientation) shall be ongoing and periodic. “Ongoing” shall mean that, at least once a quarter, management will supply information on security concerns to all tenants. This shall include, but not be limited to, formal representation, poster, dissemination of pamphlets and brochures, etc. “Periodic” shall mean that the entire curriculum shall be covered at least once a year.

Part E. Tenant Education Curriculum

The tenant education curriculum shall include:

a. Protecting Personal Property

1. Locking the car and not leaving any personal property of value in the car when not in use;
2. Safety procedures concerning car and parking lot;
3. Handbags, billfolds carried on person;
4. Keeping sales slips and serial numbers of all valuables;
5. Utilizing available credit cars, travel club or other registration services for registering valuables;
6. Consulting a local police department to see if they engrave identification numbers on valuables for municipal residents, and;
7. Encouraging direct deposit of social security checks.

b. Information About the Neighborhood

8. Available services of local financial institutions (including use of safe deposit boxes for valuables);
9. Use of public/common areas on and off the housing complex property, including, but not limited to: "Prohibition of Smoking in Public Spaces" (R.I.G.L. § 23-20.10);
10. Safety and crime prevention tips, and;
11. General orientation of local neighborhood and areas to avoid.

c. Self-protection

12. Emergency procedures and telephone numbers;
13. Recommended techniques regarding assault;
14. How to obtain emergency medical care; and
15. Fire/safety evacuation procedures demonstrated by fire department of the city or town in which the housing is located.

Part F. Records of Tenant Education

Management shall keep a record that tenants have received proper notice for tenant education and training presentations, events, and communications after initial orientation. Tenants shall be notified through appropriate means including bulletin boards, newsletters, rent mailers or other methods to ensure tenants are aware of the training being offered and to encourage maximum participation. A dated record of such notice shall be maintained in a master file of education and training events for three (3) years.

Part G. Prohibition of Smoking in All Enclosed Public Spaces

Under the “Public Health and Workplace Safety Act (R.I.G.L. §23-20.10), the Rhode Island Department of Health has amended the Rules and Regulations regarding smoking to indicate under General Requirements (Section 2) that “Smoking shall be prohibited in all enclosed public spaces within the State of Rhode Island, including but not limited to (f) elevators and (j) lobbies, hallways and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes and other multiple unit residential facilities with more than four (4) units.”

Compliance with the above Rules and Regulations and the Posting of Signs (Section 2.5) will be included in the inspection of the sites designated above and the Department of Health shall be notified of any violations therein.

Section V. High Crime Areas

Part A. Definition of Serious Crimes

The Federal Bureau of Investigation (FBI) Uniform Crime Report (UCR, Part I) compiles and provides the number of serious crimes committed in each city and town in a given year. These numbers, divided by the population of each community, provides crime rates that are used to rank each city and town according to its crime ratio. The types of crime in the FBI UCR are murder, rape, robbery, larceny, assault, breaking and entering, and motor vehicle theft.

Part B. Definition of High Crime Areas

The weighted average method of defining high crime areas is computed by dividing the total number of these crimes committed in a given year by the most recent population census. Individual cities and towns are then compared with the statewide average. Towns with crime ratios higher than the overall state weighted average for two (2) consecutive years are considered high crime areas and require security measures greater than those needed in low crime areas. The definition of high crime areas is revised annually according to the most recent FBI UCR Part I.

The directors of housing authorities and managers of sites located in the identified high crime areas will be notified directly by the Department.

Part C. Requirements for Security Guards in High Crime Areas

Housing sites located in the identified high crime areas shall either meet the requirements for security guards outlined in Section VI of these Rules and Regulations or shall request a variance from security guard coverage by following the procedure specified in Section I, Part G of these Rules and Regulations.

Section VI. Requirement for Security Guards.

Security guards in elderly housing are required in those areas of the state designated as high crime areas. The security guard schedule shall be determined by housing management, subject to reasonable review and approval by the Department.

Part A. Minimum Standards for Employment of Security Guards in Elderly Housing

Security guards must meet certain minimum standards for employment to be suitable for work in elderly residences:

1. Completion of the Security Guard Certification Program. A curriculum for training has been developed by the Department which includes a one (1) day, eight (8) hour intensive training program and examination. Housing directors or managers of housing for the elderly sites which have been determined to require security guards shall be responsible for ensuring that the security guards who work at their sites have completed the training and are certified before they begin work at the site;
2. Personal interview, and;
3. Background screening to include:
 - a. Bureau of Criminal Identification (mandatory);
 - b. Personal references, if possible;
 - c. Former employer's references, if possible.

Failure to perform satisfactorily on any of the required examinations may result in disqualification from employment.

Part B. Offenses That Will Disqualify Security Guard Applicants From Employment

The following offenses will disqualify security guard applicants from employment. These offenses are similar to lists of offenses disqualifying child day care workers and nursing home attendants from employment.

Disqualifying offenses include:

- A. Offenses against the person
 1. Murder
 2. Voluntary manslaughter
 3. Kidnapping

4. Kidnapping with the intent to extort
5. First degree sexual assault
6. Second degree sexual assault
7. Third degree sexual assault
8. Assault with intent to commit specified felonies
9. Felony assault
10. Domestic assault

B. Offenses against the family

11. Exploitation for commercial or immoral purposes
12. Abuse of elderly persons
13. Abuse of handicapped persons
14. Abuse of disabled persons
15. Abuse of children

C. Offenses against property

16. Larceny
17. Breaking and entering
18. Robbery
19. Arson
20. Burglary

D. Drug offenses

21. Any offense constituting a felony that is enumerated in R.I.G.L. § 21-28-1.01 et. seq., the Uniform Controlled Substances Act.

Part C. Minimum Training Requirements for Security Guards.

The following minimum standards for training to be utilized by each security guard company or manager at each housing site to which security guards are assigned shall include:

- A. The written procedure manual for each site
- B. Building and grounds orientation
- C. An eight (8) hour intensive training leading to Security Guard Certification that shall include the following topics:
 1. DEA Rules and Regulations Governing Security for Housing for the Elderly Act:
 - a. Program Authority
 - b. Statement of Purpose
 - c. Program Jurisdiction

- d. Requirements for Tenant Education
- e. Definition of High Crime Areas
- f. Security Guard Variance
- g. Requirements for Security Devices
- h. Reporting Requirements
- i. Appeals Procedure

2. Security Procedures:

- a. Security Regulations and Procedures
- b. Techniques of Patrols
- c. Communications
- d. Crime Prevention
- e. Alarms
- f. Bombs and Bomb Threats
- g. Emergency Procedures
- h. Dealing with Difficult Situations
- i. Laws of Evidence
- j. Theft and Pilferage
- k. Use of Public Spaces and Prohibition of Smoking in Public Spaces (R.I.G.L. § 23-20.10)
- l. Doors, Hallways and Other Property
- m. Monitoring
- n. Safety Procedures
- o. Report Writing
- p. Grooming and Appearance
- q. Public Relations
- r. General Sensitivity

3. Crimes Particular to Elderly and Disabled Individuals

- a. Elder Abuse and Self-Neglect
- b. Dealing with Special Needs Populations
- c. Fraud and Exploitation
- d. Behavioral Health issues (including substance abuse)

4. Fire Prevention and Control

- a. Fire Alarm Systems
- b. Detecting Fire Risks
- c. Fire Incident Procedures (including knowledge of site fire evacuation plan for the building to which assigned)
- d. Assisting Fire Department Personnel

5. First Aid

Management shall maintain a personnel file on each security guard. **Tenants are prohibited from serving as security guards at sites/complexes in which they reside.**

Effective upon the filing of these revised Rules, if tenants or residents who are currently serving for key access as security guards, the housing manager may request a variance. The request must include documentation that the individual(s) have undergone a BCI check and have completed the DEA Security Guard Certification Program. Other information needed by the Variance Review Committee includes the location of the housing site and police reports for the site.

Section VII. Security Guard Variance Process

The variance process by which the requirement for security personnel may be replaced by other measures is defined below. This variance will be in effect for two (2) years, unless or until circumstances change that would require the Department to rescind the variance.

The Department may provide a provisional variance or rescind the variance if there is clearly documented evidence indicating a serious increase in the level of crime at the housing complex or in the contiguous neighborhood that is not being addressed by other means.

Security devices adequate to provide a reasonable level of safety as determined by the Department may constitute a replacement of the requirement for security guards. The Department will consider the use of management and maintenance personnel as an element in the variance process. Incidence of crime in the building(s) and grounds will be considered as an element of the variance process. A police report, indicating incidence of crime in the building(s) and grounds will be considered as an element of the variance process.

A police report indicating incidence of crime in building(s) and grounds shall be submitted to the Department annually. The report must include incidence by type of crime for the previous twelve (12) months. As a requirement for consideration of the variance, an incidence of crime lower than the state ratio defined as high crime areas must be demonstrated (See Section V).

The Department will consider granting a variance upon receipt of a “Request for a Variance” from owners/managers of a specific housing complex: The “Request for Variance” shall contain the following elements:

1. A letter from the local law enforcement agency stating that the housing complex is not considered a high crime housing complex;
2. Twelve (12) months of local police department patrol data indicating that the housing complex and its contiguous neighborhood is not a high crime area). These data must be based on the methodology used to derive the state crime ratio and must use the same data elements as the FBI UCR Part I;

3. A detailed plan listing the type and location of security devices that are installed in and/or around the site to deter crime;
4. A detailed listing of other measures, such as the use of management/maintenance personnel on site and/or resident crime watches;
5. Evidence that the tenants of the housing complex have been informed of the variance request and have had the opportunity to submit their comments concerning this request. Tenants must be notified through postings and allowed to comment at a tenant meeting posted at least five (5) days prior to the meetings. The meeting must be documented with signatures of the tenants followed by their stated agreement or disagreement regarding the need for security guards at that site.

Section VIII. Requirements for Security Devices.

As of 1 January 2007, all housing sites in Rhode Island designated as Housing for the Elderly will be required to have cameras attached to their continuously running or motion activated recorders for all first floor exit/egress doors. A variance to this requirement may be granted (See **Section I Part G Variance Process** above). The factors that will be considered in granting a variance will be a review of the location and setting of the elderly housing complex and if the doors have alarms attached. If indicated, police reports of activities around the building(s) may also be considered in granting a variance.

Section IX. Reporting Requirements.

A. Annual Report Describing Security System. All housing for the elderly shall submit an annual report describing their security system to the Department as well as to their mortgage or regulatory agency, whichever is applicable. This report shall address all the requirements stipulated in Sections IV, VI, VII and VIII of these Rules and Regulations.

This report shall be mailed to the following individual on or before the last day of the compliance period shown on the DEA Certificate of Compliance of the housing agency:

Manager, Housing Program
Rhode Island Department of Elderly Affairs
Benjamin Rush Building
35 Howard Avenue
Cranston, RI 02920

B. Notice of Changes in Housing Manager and Security Personnel. All housing for elderly shall notify the Department's Manager, Housing Program of any change in the

housing manager and any change in security personnel at the housing site. This notification shall be made within thirty (30) days after the change in personnel.

Section X. Appeals Procedures.

Management of public or private housing for the elderly whose housing security systems have been deemed to be inadequate to provide a safe and secure environment for the residents of their housing site has the right to appeal such a decision. Such appeals shall follow the procedures listed below:

Notice of Denial

1. Management of public or private housing for the elderly shall receive written notice that the housing security system has been deemed to be inadequate to provide a safe and secure environment for the residents of their housing site. Such notice shall be provided by the Department on a standard denial form developed by the Department. This notice will be provided as soon after determination of the system's inadequacy as possible, but not more than thirty (30) days after that determination has been made.

This notice shall include:

- a. the reason(s) for denial and
- b. the procedure for appeal.

Procedure for Appeal

Applicants shall contact the Department Hearing Officer to request an appeal. The Department Hearing Officer shall be a Department administrative employee who is not responsible for administration of the Home and Community Care Services Program.

A hearing shall be scheduled to take place as soon as possible but not longer than fourteen (14) days after the request for the hearing is received by the Department

The applicant must contact the Department within ninety (90) days of the date of the denial letter from the Department. No hearing shall be granted upon a request more than ninety (90) days from the date of the denial letter.

Written notice of the hearing shall be supplied to the applicant and shall include:

- a. statement of the time, place, and nature of the hearing;
- b. statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. a reference to the particular sections of the statutes and rules involved; and
- d. a short and plain statement of the issues involved.

The applicant shall have the right to have with him/her any person or any documentation pertinent to the issues involved. The applicant must supply documentation at the time of the hearing for age, residence, and income.

The Department Hearing Officer shall maintain a record of the hearing, including the following:

- a. evidenced received or considered;
- b. statement of matters officially noted;
- c. questions and offers of proofs and rulings;
- d. findings and exceptions;
- e. the decision by the Hearing Officer; and
- f. all memoranda and data submitted to the Hearing Officer presiding at the hearing.

Oral proceedings or any part thereof shall be transcribed on request of any party, and copies made available to said party at cost. Findings of fact shall be made exclusively on the evidence and matters officially noted.

Section XI. Assessment of Penalty

Any housing complex for the elderly that has failed to meet the security requirements as outlined in the statute and preceding regulations will be notified by letter and will be allowed a maximum of twenty (20) working days to resolve or cure the problem which has been identified. A shorter or an immediate response may be requested if there is a failure to meet a requirement which places the residents in the building(s) at risk.

If the problem has not been resolved within the time allowed, the housing complex will be assessed an administrative penalty up to \$1,000.00 plus interest as determined by the Director. Such assessment shall be administered according to the procedures listed below:

1. The housing complex for the elderly shall receive a written notice, either by service, in hand, or by certified mail, return receipt requested, from the Director of the Department's intent to assess an administrative penalty. The notice shall include:
 - a. a concise statement of the alleged failure to comply with the requirements of the housing security rules and regulations;
 - b. the amount which the Director seeks to assess;
 - c. a statement of the housing complex's right to a hearing on the penalty assessed;
 - d. the requirement to respond in writing within ten (10) days from receipt of the notice of the penalty to request a hearing and that failure to respond within the ten (10) days will result in a waiver of the right to an adjudicatory hearing; and

- e. the manner of payment should the housing complex for the elderly elect to pay the penalty and waive hearing.
2. In the event that the housing complex makes a timely request for an administrative hearing, the following procedures shall be followed:
- a. the hearing shall take place as soon as possible but not longer than 45 fourteen (14) days after receipt of the written request;
 - b. written notice of the hearing shall be supplied to the requesting party and shall include:
 - i. a statement of the time, place and nature of the hearing.
 - ii. a statement of the legal authority and jurisdiction under which the hearing is to be held;
 - iii. a reference to the particular sections of the statutes and rules involved; and
 - iv. a short and plain statement of the issues involved.
 - c. The Department's Hearing Officer shall conduct the hearing.
 - d. All parties shall have the opportunity to respond and present evidence and argument on all pertinent issues involved;
 - e. The Department Hearing Officer shall maintain a record of the hearing, including the following:
 - i. evidenced received or considered;
 - ii. statement of matters officially noted;
 - iii. questions and offers of proofs and rulings;
 - iv. findings and exceptions;
 - v. the decision by the Hearing Officer; and
 - vi. all memoranda and data submitted to the Hearing Officer presiding at the hearing.

Oral proceedings or any part thereof shall be transcribed on request of any party, and copies made available to said party at cost. Findings of fact shall be made exclusively on the evidence and matters officially noted.

2. Any housing complex for the elderly that elects to appeal an adverse decision of the Hearing Officer shall have thirty (30) days after the mailing notice of the final decision to request judicial review. The procedures outlined in R.I.G.L. § 42-35-15 shall be followed. If any administrative penalty is assessed at the conclusion of an adjudicatory hearing, the administrative penalty shall be final upon the expiration of thirty (30) days if no action for judicial review of the decision is commenced.