

## **Chapter 23**

### **INFORMATION, PRIVATE**

#### **Article I**

#### **Notice of Security Breaches**

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**[HISTORY: Adopted by the Town Board of the Town of Patterson 3-22-2006 by L.L. No. 1-2006]**

Article I  
**Notice of Security Breaches**  
[Adopted 3-22-2006 by L.L. No. 1-2006]

**§ 23-1. Legislative intent.**

It is the intent of the Legislature of the Town of Patterson to enact this Chapter 23 of the Patterson Town Code in accordance with § 208, Subdivision 8, of the New York State Technology Law, to establish the procedures to follow in order to protect the residents of the Town of Patterson in the case in which a person without valid authorization has acquired private information from the records of the Town of Patterson.

**§ 23-2. Definitions.**

As used in this section, the following terms shall have the following meanings:

**BREACH OF SECURITY OF THE SYSTEM** - Unauthorized acquisition or acquisition without valid authorization of computerized data which compromises the security, confidentiality, or integrity of personal information maintained by a municipal entity. Good faith acquisition of personal information by an employee or agent of a municipal entity for the purposes of the agency is not a breach of the security of the system, provided that the private information is not used or subject to unauthorized disclosure. In determining whether information has been acquired, or is reasonably believed to have been acquired, by an unauthorized person or a person without valid authorization, such municipal entity may consider the following factors, among others:

- A. Indications that the information is in the physical possession and control of an unauthorized person, such as a lost or stolen computer or other device containing information; or
- B. Indications that the information has been downloaded or copied; or
- C. Indications that the information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported.

**CONSUMER REPORTING AGENCY** - Any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. A list of consumer reporting agencies shall be compiled by the Town of Patterson and furnished upon request to municipal entities required to make a notification under §23-3 of this Chapter.

**MUNICIPAL ENTITY** - Any municipal board, bureau, division, committee, commission, council, department, public authority, public benefit corporation, office or other governmental entity performing a governmental or proprietary function for the Town of Patterson, except the judiciary.

**PRIVATE INFORMATION** --

A. Personal information in combination with any one or more of the following data elements, when either the personal information or the data element is not encrypted or encrypted with an encryption key that has also been acquired:

- (1) social security number;
- (2) driver's license number or non-driver identification card number; or
- (3) account number, credit or debit card number, in combination with any required security code, access code, or password which would permit access to an individual's financial account.

B. "Private information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

### **§ 23-3. Disclosure.**

Any municipal entity of the Town of Patterson that owns or licenses computerized data that includes private information shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the system to any resident of the Town of Patterson whose private information was, or is reasonably believed to have been, acquired by a person without valid authorization. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subdivision 23-5 of this Chapter, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system. The municipal entity shall immediately take appropriate measures to determine the scope of the breach and restoration measures.

### **§ 23-4. Notification.**

Any municipal entity that maintains computerized data that includes private information which such agency does not own shall notify the owner or licensee of the information of any breach of the security of the system immediately following discovery, if the private information was, or is reasonably believed to have been, acquired by a person without valid authorization.

### **§ 23-5. Delay of notification for law enforcement purposes.**

The notification required by this section may be delayed if a law enforcement agency determines that such notification impedes a criminal investigation. The notification required by this section shall be made after such law enforcement agency determines that such notification does not compromise such investigation.

### **§ 23-6. Methods of notification.**

The notice required by this section shall be directly provided to the affected persons by one of the following methods:

- A. Written notice;
- B. Electronic notice, provided that the person to whom notice is required has expressly consented to receiving said notice in electronic form and a log of each such notification is kept by the municipal entity who notifies affected persons in such form; provided further, however, that in no case shall any person or business require a person to consent to accepting said notice in said form as a condition of establishing any business relationship or engaging in any transaction;
- C. Telephone notification provided that a log of each such notification is kept by the municipal entity who notifies affected persons; or
- D. Substitute notice, if a municipal entity demonstrates to the state attorney general that the cost of providing notice would exceed two hundred fifty thousand dollars, or that the affected class of subject persons to be notified exceeds five hundred thousand, or such agency does not have sufficient contact information. Substitute notice shall consist of all of the following:
  - (1) e-mail notice when such municipal entity has an e-mail address for the subject persons;
  - (2) conspicuous posting of the notice on such municipal entity's web site page, if such agency maintains one; and
  - (3) notification to major countywide media.

### **§ 23-7. Content of notification.**

Regardless of the method by which notice is provided, such notice shall include contact information for the municipal entity making the notification and a description of the categories of information that were, or are reasonably believed to have been, acquired by a person without valid authorization, including specification of which of the elements of personal information and private information were, or are reasonably believed to have been, so acquired.

### **§ 23-8. Other required notifications.**

- A. In the event that any Town of Patterson residents are to be notified, the municipal entity shall notify the state attorney general, the consumer protection board, and the state office of cyber security and critical infrastructure coordination as to the timing, content and distribution of the notices and approximate number of affected persons. Such notice shall be made without delaying notice to affected Town of Patterson residents.

B. In the event that more than five thousand Town of Patterson residents are to be notified at one time, the municipal entity shall also notify consumer reporting agencies as to the timing, content and distribution of the notices and approximate number of affected persons. Such notice shall be made without delaying notice to affected Town of Patterson residents.