

Local Law No. __ of 2022, entitled:

“ Local Law Establishing Computer System Security Breach Notification Policy”

BE IT ENACTED BY, the Town Board of the Town of Clinton as follows:

1. A new Chapter is hereby added to the Town Code which shall read as follows:

Chapter 15. Computer System Security Breach Notification Policy.

§ 15-1 Title.

This Chapter shall be known as the Town of Clinton “Computer System Security Breach Notification Policy.”

§ 15-2 Legislative intent.

This Computer System Security Breach Notification Policy is intended to establish procedures to follow in the event a person(s) has acquired, without valid authorization, private information of individuals from the records of the Town of Clinton and to alert said individuals to any potential identify theft as quickly as possible so that they may take appropriate steps to protect themselves from and remedy any impacts of the potential identity theft or security breach.

§ 15-3 Authority.

This Chapter is enacted pursuant to the New York State Constitution, New York Municipal Home Rule Law § 10, General Business Law §§ 899-aa and 899-bb, and New York State Technology Law § 208.

§ 15-4 Definitions.

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

BREACH OF SECURITY OF THE SYSTEM: Unauthorized acquisition or acquisition without valid authorization of computerized data which compromises the security, confidentiality or integrity of private information maintained by the Town. Good faith access to or, acquisition of, private information by an employee or agent of the Town for the purposes of the employee or agent 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 accessed, or is reasonably believed to have been accessed, by an unauthorized person or a person without valid authorization, the Town may consider, among other factors, indications that the information was viewed, communicated with, used, or altered by a person without valid authorization or by an unauthorized

person. 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, the Town 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 or entity 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 may be obtained upon request to the State Attorney General.

DEPARTMENT: Any board, division, committee, commission, council, department, public authority, public benefit corporation, office or other governmental entity performing a governmental or proprietary function for the Town.

PERSONAL INFORMATION: Any information concerning a natural person which, because of name, number, personal mark, or other identifier, can be used to identify that person.

PRIVATE INFORMATION:

(A) Either:

(1) 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:

(a) Social security number;

(b) Driver's license number or nondriver identification card number;

(c) 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.

(d) Account number, or credit or debit card number, if circumstances exist wherein such number could be used to access an individual's financial account without additional identifying information, security code, access code, or password;

(e) Biometric information, meaning data generated by electronic measurements of an individual's unique physical characteristics, such as fingerprint, voice print, or retina or iris image, or other unique physical representation or digital representation which are used to authenticate or ascertain the individual's identity; or

(2) A username or email address in combination with a password or security question and answer that would permit access to an online account.

B. "Private information" does not include publicly available information that is lawfully made available to the general public from Town records.

TOWN: The Town of Clinton, County of Dutchess.

§ 15-5 Disclosure of breach to affected persons.

Any Town Department that owns or licenses computerized data that includes private information must disclose any breach of the security of the system to any individual whose private information was, or is reasonably believed to have been, acquired by a person without valid authorization. The disclosure must be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in § 15-7 below, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system. The Town shall consult with the New York State Chief Information Security Office (CISO) and New York State Office of Information Technology Services to determine the scope of the breach and restoration measures.

§ 15-6 Disclosure of breach to owner or licensee.

If the Town maintains computerized data that includes private information which the Town does not own, the Town must 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, access or acquired by a person without valid authorization.

§ 15-7 Permitted delay.

Notification pursuant to this policy may be delayed if a law enforcement agency determines that notification could impede a criminal investigation. The notification must be made after the law enforcement agency determines that notification would not compromise any criminal investigation.

§ 15-8 Method of notification.

The required notice must be directly provided to the affected individuals by one of the following methods:

A. Written notice;

B. Electronic notice, provided that the person to whom notice is required to be provided has expressly consented to receiving notice in electronic form and a log of each electronic notification is kept by the Town; and provided further that no person or business may require a person to consent to accepting notice in electronic form as a condition of establishing any business relationship or engaging in any transaction;

C. Telephone notification, provided that a log of each telephone notification is kept by the Town; or

D. Substitute notice, if the Town demonstrates to the State Attorney General that the cost of providing notice would exceed \$250,000 or that the number of individuals to be notified exceeds 500,000, or the Town does not have sufficient contact information. Substitute notice must include all of the following:

(1) E-mail notice, when the Town has an e-mail address for the subject persons;

(2) Conspicuous posting of the notice on the Town's website page, if the Town maintains one; and

(3) Notification to major state-wide media.

§ 15-9 Information required.

Regardless of the method by which notice is provided pursuant to § 15-8 above, the notice must include contact information for the Town 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 were, or are reasonably believed to have been, acquired.

§ 15-10 Notification of agencies.

A. Whenever any New York State residents are to be notified pursuant to this policy, the Town must notify the State Attorney General, the New York State Department of State - Division of Consumer Protection, the New York State Chief Information Security Office (CISO) and the New York State Office of Information Technology Services as to the timing, content and distribution of the notices and the approximate number of affected people. Such notice must be made without delaying notice to affected individuals.

B. Whenever more than 5,000 New York State residents are to be notified at one time, the Town must also notify consumer reporting agencies as to the timing, content and distribution of the notices and the approximate number of affected people. Such notice must be made without delaying notice to affected individuals.

2. The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of this Local Law, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase of this Local Law, which shall remain in full force and effect.
 - 1.
3. This Local Law is adopted pursuant to the New York State Constitution, New York Municipal Home Rule Law § 10, General Business Law §§ 899-aa and 899-bb, and New York State Technology Law § 208 to advance and protect the health, safety, and welfare of the Town.
 - 2.
4. To the extent that any provision of this Local Law is inconsistent with Town Law §§ 263, 274-a, 274-b or any other provision of Article 16 of the Town Law, the provisions of this Local Law are expressly intended to and do hereby supersede any such inconsistent provisions under the Town's municipal home rule powers, pursuant to Municipal Home Rule Law §10(1)(ii)(d)(3); §10(1)(ii)(a)(14) and §22 to supersede any inconsistent authority.