

**VILLAGE OF HORSEHEADS
LOCAL LAW #3 OF 2006
A LOCAL LAW ADDRESSING INFORMATION SECURITY BREACHES AND NOTIFICATION
TO EFFECTED CONSUMERS
ADOPTED JUNE 8, 2006**

Section 1. FINDINGS. The Village of Horseheads Board of Trustees finds that identity theft and security breaches are effecting local residents and others. The New York State Legislature and Governor enacted legislation mandating the establishment of a breach notification procedure to prevent injury to residents and afford an opportunity for repair of damages resultant from a breach.

Section 2. DEFINITIONS.

- a) The terms “private information”, “breach of security of the system”, and “consumer reporting agency” shall have the same meaning as provided in State Technology Law Section 208, as amended from time to time, excepting that where the word “State” is used, it shall be interchanged with the word “Village” as the context of this law will require.
- b) “Village entity” shall mean any Village 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 Village of Horseheads except the judiciary.
- c) “Village” shall mean the Village of Horseheads, NY.

Section 3. DISCLOSURE OF SECURITY BREACHES. Any Village entity 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 New York State 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 Section 5 of this Law, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

Section 4. DISCLOSURE OF SECURITY BREACH TO INFORMATION OWNER. Any Village entity that maintains computerized data that includes private information which such entity 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.

Section 5. NOTIFICATION DELAY. The notification required by this Law may be delayed if a law enforcement agency determines that such notification impedes a criminal investigation. The notification required by this Law shall be made after such law enforcement agency determines that such notification does not compromise such investigation.

Section 6. NOTICE. The notice required by this Law 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 Village 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) substitute notice, if a Village entity demonstrates to the New York 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 entity does not have sufficient contact information, substitute notice shall consist of all of the following:
 - 1. e-mail notice when such Village entity has an e-mail address for the subject persons;
 - 2. conspicuous posting of the notice on such Village entity's web site page, if such entity maintains one; and
 - 3. notification to major statewide media.

Section 7. CONTENTS OF NOTICE. Regardless of the method by which notice is provided, such notice shall include contact information for the person or business 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.

Section 8. NOTICE TO STATE OFFICIALS/AGENCIES. In the event that any New York residents are to be notified at one time, the person or business shall notify the NYS 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 New York residents.

In the event that more than five thousand New York residents are to be notified at one time, the person or business 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 New York residents.

Section 9. REPEALER. Any local law, ordinance, or resolution of the Village in conflict herewith is hereby repealed to the extent of such conflict or inconsistency, except that this Local Law shall not effect or prevent the prosecution or punishment of any person for any act done or committed in violation of any Local Law, ordinance, regulation or resolution hereby repealed prior to the effective date of this Local Law.

Section 10. SEVERABILITY. In the event any clause, sentence, section or other part of this Local Law shall be declared to be invalid, such invalidity shall not effect the remainder of this Local Law.

Section 11. EFFECTIVE DATE. This Local Law shall take effect upon filing with the Secretary of State.

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