

Town of Berne, New York

Freedom of Information Law (FOIL) Policy 13-2026

Adopted by the Town Board of the Town of Berne on 1/1/26: Resolution 10 of 2026

I. Purpose

This policy establishes the procedures by which the Town of Berne administers and complies with the New York State Freedom of Information Law (FOIL), Public Officers Law Article 6. The Town is committed to transparency while ensuring the protection of personal privacy, safety, and confidential information.

II. Designation of Records Access Officers

Records Access Officer (RAO)

The Town Board designates the following position as Records Access Officer:

Records Access Officer

Town of Berne Office of the Town Clerk
1656 Helderberg Trail or PO Box 57
Berne, NY 12023
clerk@berneny.gov

Duties include:

- Receiving and responding to FOIL requests;
- Overseeing searches for responsive records;
- Coordinating redaction of sensitive information;
- Maintaining a FOIL request log;
- Certifying copies of records.

Alternate RAO

An alternative may be appointed by the Town Supervisor to ensure continuity of service.

III. Submission of FOIL Requests

Requests may be submitted in writing via email, mail, or in person. Verbal requests may be accepted for records immediately available, however they shall be documented.

Email: clerk@berneny.gov

Mail / In-Person:

Records Access Officer

1656 Helderberg Trail or PO Box 57

Berne, NY 12023

Requests should:

- Be in writing;
- Reasonably describe the records sought;
- Include a return address or email.

Requests received by any Town official or employee shall be forwarded to the Records Access Officer promptly. A request shall not be rejected solely because it was not submitted directly to the Records Access Officer. For FOIL timeframes, a request is deemed received when first received by any Town officer or employee.

IV. Acknowledgment and Response Timeline

The Town will respond within **five (5) business days** by:

- Acknowledging the request and providing a reasonable completion date;
- Providing the requested records; or
- Denying the request with written explanation and appeal instructions.

V. Inspection of Records

Records may be inspected at Town Hall during regular business hours. Appointments may be required.

VI. Fees

The Town may charge:

- **\$0.25 per page** for photocopies up to 9"x14";
- **Actual cost of reproduction** for larger documents, digital media, or staff time in excess of two hours.

An estimate will be provided upon request.

VII. Privacy and Safety Protections

The Town of Berne is committed to preventing disclosure that could result in personal harm or infringement of privacy. In accordance with Public Officers Law §§ 87(2) and 89(2), access may be denied to records or portions thereof when disclosure:

a) Unwarranted Invasion of Personal Privacy

Records may be withheld if they contain:

- Personal contact information.
- Medical, employment, or financial history.
- Personal data irrelevant to government operations.
- Information that could reasonably be used to harass, intimidate, or target an individual.

b) 7.2 Endangerment of Life or Safety

Access may be denied when disclosure could reasonably be expected to:

- Endanger the life or safety of any person;
- Expose individuals to threats, harassment, stalking, or violence;
- Reveal locations of vulnerable individuals;
- Compromise security or emergency operations.

c) 7.3 Sensitive Information Not Explicitly Listed

The Town may withhold information that, while not specifically enumerated in statute, presents a credible risk of personal harm or undue distress, provided such withholding is consistent with FOIL and case law.

d) 7.4 Duty to Redact

When possible, sensitive portions will be redacted rather than withholding the entire record.

VIII. 8. Enhanced Privacy and Safety Review

Before releasing any record, the RAO shall conduct a privacy and safety assessment. If risks such as harassment, intimidation, or personal harm are identified, the Town may:

- Redact the sensitive portions; or
 - Deny the request in full if redaction is insufficient.
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IX. 9. Redaction Procedures and Guidelines

Town personnel shall use the following guidelines:

- Redact only information necessary to prevent harm or protect privacy;
 - Clearly label redactions with applicable statutory exemptions;
 - Maintain an internal, unredacted version for legal and archival use;
 - Consult legal counsel when safety risks are uncertain or significant.
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X. 10. Grounds for Denial

The Town may deny access for reasons permitted under FOIL, including but not limited to:

- Unwarranted invasion of privacy;
- Interference with law enforcement investigations;
- Records exempted by state or federal law;
- Trade secrets or proprietary information;
- Drafts or inter-agency communications not constituting final policy.

Protection of Personal Privacy and Safety

The Town of Berne is committed to protecting the personal privacy and safety of individuals. In accordance with Public Officers Law §§ 87(2) and 89(2), the Town may deny access to records or portions thereof when disclosure:

1. **Would constitute an unwarranted invasion of personal privacy**, including but not limited to:
 - Personal contact information,
 - Medical or employment history,
 - Information of a personal nature that is not relevant to the work of the Town,
 - Information that could be used to harass, intimidate, or target an individual.
2. **Could endanger the life or safety of any person**, including situations where the release of records may:
 - Expose individuals to threats, harassment, or violence,
 - Reveal sensitive locations such as residence addresses of vulnerable persons,
 - Identify individuals in matters involving domestic violence, stalking, or other safety risks,
 - Disclose information that could compromise security or emergency operations.
3. **Contains sensitive personal information** that, if disclosed, may subject an individual to personal harm, danger, or undue stress, even when not explicitly listed in statute, provided such withholding is consistent with FOIL and applicable case law.

Whenever possible, the Town will consider **redacting sensitive information** rather than withholding an entire record, consistent with FOIL requirements.

All denials shall be in writing.

XI. 11. FOIL Appeal Process

Appeals must be filed **within 30 days** of denial.

FOIL Appeals Officer

Town Supervisor
1656 Helderberg Trail or PO Box 57
Berne, NY 12023

The Appeals Officer will:

- Acknowledge appeals within **10 business days**;
 - Issue a written determination within **10 business days** of acknowledgment;
 - Forward copies of appeals and determinations to the Committee on Open Government.
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XII. 12. Records Retention

The Town follows the **New York State Archives Records Retention and Disposition Schedule** for local governments.

XIII. 13. Posting and Updating

This policy shall be posted on the Town’s website and updated as needed.

XIV. 14. Effective Date

This policy shall be reviewed annually by the Town Board and may be amended as necessary to remain in compliance with New York State law. This policy shall take effect immediately upon adoption by the Town Board.

Adopted by the Town Board of the Town of Berne on **January 1, 2026**.

Appendix A: Foil Request Form

See next page

FOIL Request Form

Submit to: Town Clerk Kristin De Oliveira

Mail to: PO Box 57 Berne NY 12023

Email to: clerk@berneny.gov

Fax to: 518-872-9303

Name: _____

Mailing
Address: _____

Email for Digital
Copies: _____

I hereby request to inspect the following records:

Records/Documents requesting to inspect: Be specific of possible including date or record if possible

Signature: _____ Date _____

Appendix B: Sample Redaction Justification Codes

- **87(2)(b)** – Unwarranted invasion of personal privacy
 - **87(2)(f)** – Endangerment of life or safety
 - **87(2)(g)** – Inter-agency materials
 - **87(2)(d)** – Trade secrets/proprietary
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