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Town of Berne

Purchasing Policy and Procedures 01-2026

Adopted by the Town Board on 1/1/2026: Resolution 5 of 2026

Modified and adopted by the Town Board on: 1/28/26

I. Purpose

The purpose of this policy is to ensure that the Town of Berne conducts procurement of goods and services in compliance with New York State General Municipal Law (GML) §§103 and 104-b, and in a manner that fosters transparency, efficiency, and the prudent use of public funds. In addition, the purpose of this policy is to employ industry standard procurement and accounting functions (i.e., encumbrances prior to purchase) to ensure compliance with budget appropriations.

The Town Supervisor acts as the Chief Procurement Officer and shall be responsible for assuring that all purchases are made in accordance with this procurement policy.

Every prospective purchase of goods or services shall be evaluated by the Town Supervisor to determine the applicability of General Municipal Law (GML) § 103.

Every Town procurement official with the requisite purchasing authority (hereinafter "purchaser") shall annually estimate the cumulative amount of the items of supply/service or equipment anticipated to be needed in a given fiscal year. That estimate shall be used in a canvass of other Town departments to determine the likely annual aggregate town-wide cost of the acquisition. The information gathered and conclusions reached shall be documented and kept with the file or other documentation supporting the purchase activity.

All purchases of over \$1,000 (one thousand dollars) require prior approval of the Town Board with the exception of Highway and Sewer Fund purchases; all purchases over \$3,000 (three thousand dollars) require prior approval of the Town Board. All other procurement requirements in this policy are still applicable.

The following Officials are designated as purchasers for the purposes of this policy.

- Town Supervisor
- Town Clerk
- Deputy Town Supervisor
- Superintendent of Highways

The Chief Procurement Officer may grant other Town officials purchasing authority for one-time purchases in accordance with this and any other applicable policy.

II. Statutory Requirements

1. **Competitive Bidding (§103 GML):**

- All purchase contracts involving an expenditure in excess of **\$20,000**, and all public works contracts involving an expenditure in excess of **\$35,000**, shall be awarded to the lowest responsible bidder after public advertisement and the receipt of sealed bids.
- The thresholds shall be adjusted if modified by future legislation.

2. **Exceptions:** Competitive bidding is not required in the following instances:

- Purchases made through New York State Office of General Services (OGS) contracts.
- Purchases made through county or other municipal cooperative contracts (see Section V. Cooperative Purchasing Exception)
- Purchases of surplus and secondhand supplies, materials, or equipment from another government entity.
- Emergency situations where delay would threaten life, health, safety, or property.
- Professional services and true sole-source procurements.

III. Procurement Policy (§104-b GML)

For procurements not required to be competitively bid, the Town adopts the following procedures to ensure the prudent and economical use of public funds:

A. Thresholds and Methods

1. **Purchase Contracts (goods and services not subject to bidding):**

- \$0 – \$3,000: Discretion of purchaser; verbal quotes encouraged.
- \$3,001 – \$10,000: Documented verbal or written quotes from at least 2 vendors.
- \$10,001 – \$20,000: Written quotes from at least 3 vendors.
- \$20,000 & higher: Competitive sealed bids with contract

2. **Public Works Contracts (labor and services not subject to bidding):**

- \$0 – \$5,000: Discretion of purchaser; verbal quotes encouraged.
- \$5,001 – \$15,000: Documented verbal or written quotes from at least 2 contractors.
- \$15,001 – \$35,000: Written quotes from at least 3 contractors.
- \$35,000 & higher: Competitive sealed bids with contract

These totals are to be considered as the total aggregate purchase for the entire town as a single entity, not on an individual department basis. Whenever feasible, the Town will

use existing municipal contracts and/or preferred vendors (i.e., NYS Preferred Source Program for New Yorkers Who Are Blind – NYSPSP)

B. Purchase Orders

The purpose of this section is to ensure conformance with **NYS Town Law § 125** whereby the Supervisor, acting as the CFO, is prohibited from overdrawing a fund/appropriation and/or using one fund/appropriation to pay a claim that belongs to another. The application of this policy will result in the encumbrance of funds prior to the acquisition of the goods and services procured via the Purchasing Policy.

1. Requirement:

- A **purchase order (PO)** shall be issued by the Town prior to the ordering of goods or services, except in emergencies or petty cash purchases under \$100.
- No vendor should provide goods or services without a valid PO, unless authorized by the Supervisor or Town Board.

2. Authorization:

- Purchase orders must be approved by the Town Supervisor (or their designee) and certified by the Town's fiscal officer to confirm that funds are available in the appropriate budget line.
- Department heads may request purchase orders, but authorization must be obtained prior to commitment of Town funds.

3. Encumbrance of Funds:

- Purchase orders serve as an encumbrance of funds against the budget to ensure the Town does not obligate more funds than appropriated.

4. Matching & Payment:

- Invoices submitted for payment must be matched against the issued PO and any receiving documentation.
- Discrepancies must be resolved before payment is authorized.

5. Exceptions:

- Utility bills, postage, debt service, insurance premiums, and similar recurring payments are exempt from the PO requirement but must be supported by documentation.

6. Types of Purchase Orders:

i) Standard Purchase Order

- Issued for a specific purchase of goods or services, with a set quantity, price, and delivery date.
- Example: Buying 50 tons of road salt from a vendor at a fixed unit cost.
- Restrictions: Purchase limited to the specified materials at the specified quantities and prices. Total authorized amount may not be exceeded.

ii) Blanket Purchase Order (BPO)

- Used when the Town expects to buy a category of goods/services repeatedly over a set period.
- Authorizes spending up to a specified **dollar limit** with a particular vendor.
- Helps streamline small, recurring purchases (e.g., office supplies, auto parts, fuel).
- Example: Annual PO with an office supply company, not to exceed \$5,000.
- Restrictions: Various unspecified items may be purchased however each individual purchase is limited to \$300.00 and the total town wide aggregate of expenditure may trigger alternate solicitation requirements as detailed in III Procurement Policy. Total authorized amount may not be exceeded.

iii) Standing or Open Purchase Order

- Similar to a blanket PO but usually tied to a **specific contract** or **state/county bid** pricing.
- Valid for multiple purchases of the same item/service, often until the contract expires.
- Example: PO tied to NYS OGS pricing for highway equipment parts.
- Restrictions: Only materials, equipment and services listed on the contract may be acquired via valid contract. Total authorized amount may not be exceeded.

iv) Contract Purchase Order

- Tied directly to a **formal bid, RFP, or contract** awarded by the Town Board.
- Encumbers funds against that contract and provides authorization for departments to draw against it.
- Example: Snow removal contract for private plowing of town lots — each invoice references the contract PO.
- Restrictions: Only materials, equipment and services listed on the contract may be acquired via valid contract. Total authorized amount may not be exceeded

v) Emergency Purchase Order

- Used when time is of the essence (threat to life, health, safety, or property).
- Allows an official to issue a PO without prior Board approval but requires documentation and retroactive Board ratification.
- Example: Emergency generator repair after a storm.

vi) Change Order (Amendment to PO)

- Not a standalone PO, but an adjustment to an existing one.
- Used when quantities, costs, or scope change after the original PO is issued.
- Requires approval and documentation (Town Board approval if thresholds are crossed)

vii) Documentation

All quotes, bids, purchase orders, and procurement justifications shall be documented in writing and maintained in the Town's purchasing files for audit and public record purposes.

The Chief Procurement Officer must attest to the delivery of commodities or services through vendors awarded bids, and also for purchases of a general nature below the bid standard. Such documentation must be presented to the Town Clerk.

Documentation must consist of a packing slip, Purchase Order number and invoice signed by the purchaser or designee indicating receipt of commodities or services.

C. Award of Contracts

Contracts shall be awarded to the lowest responsible bidder or best value offer (where permitted by law and authorized by Town Board resolution). Consideration may include price, quality, reliability, delivery terms, and past performance. Where practicable, the Town will seek to award contracts for a term of one year with two single-year extensions, based on Town Board approval. Bids released by the Town in accordance with **Competitive Bidding (§103 GML)** shall yield a written contract between the Town and Contractor.

Upon approval of the Town Board, only the Town Supervisor will be authorized to enter into written contract.

Example bids solicitations, request for proposals and contracts are attached for demonstration purposes only; final versions will be based on the needs of the scope of the project, field conditions, legal requirements, insurance requirements and final approval of legal counsel.

D. Exceptions and Justifications

In circumstances where quotes cannot be obtained, or where a purchase is a sole source, a written explanation must be attached to the purchase documentation.

IV. Professional Services

Professional services requiring specialized skill, training, or expertise (e.g., legal, engineering, auditing, information technology, grant writing, consulting) are exempt from competitive bidding requirements. Such services are described as having specialized education, professional judgement or discretion. Services such as vehicle repair, cleaning groundskeeping, routine IT, snowplowing, etc. are not professional services and are subject to competitive bidding.

Use of RFPs for Professional Services

1. **RFP Process Encouraged:**

- For professional service contracts anticipated to exceed **\$5,000 annually**, the Town will, whenever practicable and as a best practice, issue a **Request for Proposals (RFP)** to solicit qualifications, experience, and pricing from multiple providers. General municipal law does not mandate limits for professional services.

2. **Evaluation Criteria:**

- RFP responses will be evaluated based on qualifications, experience, staffing, capacity to perform, references, and finally, cost.
- Selection will not be based solely on price, but on **best value** to the Town.

3. **Frequency of RFPs:**

- Long-term professional service providers should be reviewed at least every **five (5) years** through an RFP process, unless the Town Board determines it is not in the Town's best interest.

4. **Documentation:**

- All RFPs issued, responses received, and justifications for provider selection shall be maintained in the Town's procurement records.

V. COOPERATIVE PURCHASING EXCEPTION

Cooperative Purchasing (GML §103(16))

Notwithstanding the provisions of this Procurement Policy relating to competitive bidding and quotations, the Town of Berne may purchase apparatus, materials, equipment, supplies, and services through contracts let by the United States or any agency thereof, any state, or any other political subdivision or district therein, including cooperative purchasing organizations, and preferred vendors (i.e. NYSPSP), as authorized by **General Municipal Law §103(16)**.

Such cooperative purchasing shall be permitted when:

1. The cooperative contract was awarded through a competitive procurement process consistent with General Municipal Law §103;
2. The Town is an authorized participant in the cooperative purchasing program;
3. The goods or services being purchased fall within the scope of the cooperative contract; and
4. The use of the cooperative contract is determined to be in the best interest of the Town.

Documentation supporting the cooperative procurement, including the cooperative contract number, award information, and authorization, shall be maintained in the procurement file.

Purchases made pursuant to this section shall be deemed to satisfy the competitive bidding requirements of General Municipal Law §103.

VI. Emergencies

In the event of an event deemed a public emergency, procurement may be made without competitive bidding or quotes when delay would endanger public health, safety, or welfare. The Town Supervisor or designee shall determine if a public emergency exists, document the nature of the emergency and the basis for selection.

VII. Ethics and Conflict of Interest

- Town employees and officials shall not have a financial interest in any vendor or contract involved in Town procurement.
 - Employees must disclose any potential conflicts of interest to the Town Supervisor and recuse themselves from related decisions.
 - Gifts or gratuities from vendors are prohibited.
-

VIII. Policy Review and Training

- **Review:** This policy shall be reviewed annually by the Town Board to ensure compliance with state law and relevance to Town needs.
 - **Training:** Department heads and employees involved in procurement shall receive training on this policy and applicable state laws.
-

IX. Non-Compliance

Failure to comply with this policy may result in disciplinary action, up to and including termination, and may subject the Town to legal or financial penalties.

X. Adoption and Amendments

This policy shall take effect upon adoption by the Town Board and may be amended by a majority vote of the Town Board.

XI. Review and Annual Adoption

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.

XII. Effective Date

This policy shall take effect immediately upon adoption by the Town Board.

**Adopted by the Town Board of the Town of Berne, County of Albany, State of New York,
on January 1, 2026.**

Attachments

Purchasing Policy

Town of Berne

Request for Proposals (RFP) – SAMPLE FOR DEMONSTRATION ONLY

Professional Services – [Type of Service]

Issue Date: [Date]

Proposal Due Date: [Date & Time]

I. Introduction

The Town of Berne, Albany County, New York, is requesting proposals from qualified firms or individuals to provide **[type of professional service, e.g., engineering, legal, auditing, IT consulting]** services. The purpose of this RFP is to solicit qualifications and cost proposals in order to select the provider that best meets the needs of the Town in terms of experience, quality, efficiency, and cost-effectiveness.

II. Scope of Services

The selected provider will be expected to perform the following services:

- [List specific services to be provided. Examples:]
 - Provide general [engineering/legal/auditing/etc.] advice and consultation.
 - Prepare plans, reports, and documentation as required by Town Board or state/federal agencies.
 - Attend Town Board meetings when requested.
 - Respond promptly to inquiries and provide ongoing support.
 - [Add project-specific deliverables if needed.]
-

III. Proposal Requirements

Each proposal must include the following:

1. **Firm/Individual Background** – Description of qualifications, years in business, and areas of expertise.
2. **Experience** – Summary of relevant municipal or governmental experience, including examples of similar work.

3. **Staffing** – Names, qualifications, and roles of staff who will be assigned to the Town.
 4. **References** – At least three (3) references from municipal clients.
 5. **Approach & Methodology** – Explanation of how services will be provided to the Town.
 6. **Cost Proposal** – A clear statement of fees, hourly rates, or other billing structures.
 7. **Other Information** – Any additional information the proposer believes is relevant.
-

IV. Evaluation Criteria

Proposals will be evaluated using the following criteria:

- Qualifications and professional experience.
 - Demonstrated municipal/government expertise.
 - Capacity to perform services in a timely manner.
 - Quality of references.
 - Cost proposal (though not the sole factor).
 - Overall value to the Town.
-

V. Submission Instructions

- Proposals must be received by Town Clerk at the following address no later than **[Date & Time]**:
Town of Berne
Attn: Town Clerk
PO Box 571656 Helderberg Trail)
Berne, NY 12023
 - Proposals must be submitted in a sealed envelope clearly marked:
“RFP – [Type of Professional Service]”
 - Electronic submissions not accepted
-

VI. General Conditions

1. The Town reserves the right to reject any and all proposals, to waive informalities, and to select the proposal deemed most advantageous to the Town.
2. The issuance of this RFP does not commit the Town to award a contract or pay any costs incurred in preparation of a proposal.
3. The Town may request additional information or presentations from proposers prior to selection.
4. Any contract awarded shall be subject to approval by the Town Board.

VII. Timeline

- RFP Issue Date: [Date]
- Proposal Submission Deadline: [Date & Time]
- Anticipated Town Board Review: [Date]
- Anticipated Award Date: [Date]

By Order of the Town Board

Town of Berne

Town Supervisor: _____

Town Clerk: _____

Date: _____

Town of Berne

Invitation to Bid (ITB) – SAMPLE FOR DEMONSTRATION ONLY
[Project / Goods Description]

Bid Number: [2025-XX]

Issue Date: [Date]

Bid Due Date & Time: [Date & Time]

I. Notice to Bidders

The Town of [Name], [County], New York, is soliciting sealed bids for **[brief description of goods/services]** in accordance with New York State General Municipal Law §103.

Sealed bids will be received by the **Town Clerk** at:

Town of Berne
PO Box 57 (1656 Helderberg Trail)
Berne, NY 12023

until **[Date & Time]**, at which time they will be publicly opened and read aloud.

II. General Information

1. **Submission:** Bids must be submitted in a sealed envelope clearly marked: **“BID – [Project/Goods Description]”**
2. **Late Bids:** Late bids will not be accepted.
3. **Right to Reject:** The Town reserves the right to reject any or all bids, waive informalities, and accept the bid deemed in the best interest of the Town.
4. **Award:** Contracts will be awarded to the lowest responsible bidder meeting specifications, unless “best value” procurement is authorized and specified.
5. **Compliance:** All purchases are subject to the provisions of NYS GML §103 and applicable federal, state, and local laws.

III. Specifications

The following specifications are minimum requirements unless otherwise stated:

- **Item/Service Description:** [e.g., 2025 4x4 Pickup Truck]
- **Quantity:** [e.g., 2 units]
- **Technical Requirements:** [e.g., minimum 8,000 GVWR, V8 engine, automatic transmission, snowplow package]
- **Delivery Requirements:** [e.g., delivered FOB Town Garage, 123 Main Street, within 90 days of award]
- **Warranty:** [e.g., minimum 3 years / 36,000 miles, bumper-to-bumper]
- **Additional Requirements:** [add as needed, e.g., training, manuals, service support]

Vendors must provide a complete response. Equivalent or "or equal" products may be considered if clearly identified and documented.

IV. Bid Submission Form

Vendor Information

- Company Name: _____
- Address: _____
- Contact Person: _____
- Phone: _____ Email: _____

Bid Proposal

- Item/Service: _____
- Make/Model (if applicable): _____
- Unit Price: \$ _____
- Quantity: _____
- Total Bid: \$ _____
- Delivery Time: _____
- Warranty: _____

Non-Collusion Certification (Required by GML §103-d):

The undersigned certifies under penalty of perjury that this bid is made without collusion with any other bidder or competitor.

Signature: _____
Name/Title: _____
Date: _____

V. Additional Conditions

1. **Insurance:** The successful bidder shall provide proof of insurance as required by the Town (general liability, workers' compensation, etc.).
 2. **Prevailing Wage:** If this is a public works project, NYS prevailing wage schedules shall apply.
 3. **Performance Bond may be required**
 4. **Delivery & Acceptance:** Payment will be made only after delivery, inspection, and acceptance by the Town.
 5. **Withdrawal of Bids:** Bids may not be withdrawn within **45 days** of opening.
-

SPECIAL NOTE: The above represents the minimum requirements for competitive bids; the Town Supervisor, serving as the Chief Procurement Officer, reserves the right to expand on the bid specifications and detail as necessary.

Town of Berne

Sample Contract for Services / Goods – FOR DEMONSTRATION ONLY

This Agreement, made and entered into this ____ day of _____, 20__, by and between the **Town of Berne**, a municipal corporation of the State of New York, having offices at PO Box 57, (1656 Helderberg Trail), Berne, NY 12023 and **[Vendor/Contractor Name]**, with offices at [Address] (“Contractor”).

1. Services / Goods to be Provided

The Contractor agrees to provide the Town with the following goods and/or services:

- Description of goods/services, referencing bid specs, RFP, or proposal
 - Direct reference to the solicitation/resolution identification number
-

2. Term of Agreement

This Agreement shall commence on [Start Date] and shall terminate on [End Date], unless extended by mutual written agreement or terminated earlier in accordance with Section 9.

3. Compensation

1. The Town shall pay the Contractor the sum of \$_____ [lump sum or per unit rate], not to exceed \$_____, for goods/services provided under this Agreement.
 2. Payments shall be made upon submission of an invoice, verified and approved by the Town Supervisor and Town Board, in accordance with New York Town Law and the Town’s purchasing policy.
 3. No advance payments shall be made.
-

4. Independent Contractor

The Contractor is an independent contractor and not an employee, officer, or agent of the Town. Nothing herein shall be construed to create an employer–employee relationship.

5. Compliance with Laws

The Contractor shall comply with all applicable federal, state, and local laws, including but not limited to New York State General Municipal Law, Labor Law, and prevailing wage requirements (if applicable).

6. Insurance

The Contractor shall maintain, at its own cost, the following insurance coverages and provide certificates of insurance naming the Town as an **additional insured**:

- Commercial General Liability: \$1,000,000 per occurrence / \$2,000,000 aggregate.
- Automobile Liability: \$1,000,000 combined single limit.
- Workers' Compensation and Disability Insurance as required by New York State law.

Certificates shall be filed with the Town Clerk prior to commencement of work.

7. Indemnification

The Contractor agrees to indemnify, defend, and hold harmless the Town, its officers, employees, and agents, from any and all claims, damages, liabilities, and expenses arising out of the performance of this Agreement, except those arising from the Town's own negligence.

8. Non-Assignment

The Contractor shall not assign or subcontract this Agreement, in whole or in part, without the prior written consent of the Town Board.

9. Termination

The Town may terminate this Agreement upon **ten (10) days' written notice** to the Contractor for cause, including non-performance, breach of contract, or failure to comply with specifications. The Town may also terminate for convenience, in which case the Contractor shall be compensated only for satisfactory work performed to the date of termination.

10. Records and Audit

The Contractor shall maintain accurate records of costs and expenses under this Agreement and make such records available to the Town, the NYS Comptroller, or their designees for inspection and audit for a period of six (6) years following final payment.

11. Governing Law

This Agreement shall be governed by the laws of the State of New York. Venue shall be in the County of [County], New York.

12. Entire Agreement

This Agreement constitutes the entire understanding between the parties and may not be modified except in writing signed by both parties and approved by resolution of the Town Board.

13. Notice to Proceed

The Contractor will initiate the scope of services upon the issuance of a Notice to Proceed provided by the Town. Such notice will be in the form of written notice and/or issuance of purchase order. The Town reserves the right to reject payment requests for any and all expenses incurred by the Contractor prior to the receipt of Notice to Proceed.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Town of [Name]

By: _____
[Supervisor's Name], Town Supervisor

Date: _____

[Contractor Name]

By: _____

[Authorized Representative]

Title: _____

Date: _____

Approved as to Form:

[Town Attorney Name]

Town of Berne

Invoice Payment Policy 02-2026

Adopted by the Town Board on 1/1/2026: Resolution 6 of 2026

I. Purpose:

The purpose of this policy is to ensure conformance with **NYS General Municipal Law §§118, 119, and 125** with respect to proper documentation of the acquisition of materials and services for the Town of Berne

II. Receipt of Goods or Services

- The **department head or requesting official** must verify, upon receipt the of goods or services, that those goods or services were received in acceptable condition prior to processing payment
 - A **receiving report** (packing slip signed/dated or service completion note) should be attached to the invoice before submission for payment.
-

III. Submission of Invoice

- Vendors must submit invoices directly to the **Town Clerk**
- **Town Clerk will document receipt of invoices and forward to appropriate department heads for review and approval**
- Each invoice must include:
 - Vendor name and address
 - Purchase Order (PO) number (if applicable)
 - Description of goods/services
 - Quantity, unit price, and total
 - Date of service/delivery
 - Any contract/bid reference number
 - Executed Town Voucher

IV. Matching & Review

The **three-way match** must occur before payment:

1. **Purchase Order** – Was the expenditure authorized, and funds encumbered?
2. **Receiving Report** – Were goods/services received as ordered?
3. **Invoice** – Does the invoice match the PO and receiving documentation?

If discrepancies exist (wrong quantity, incorrect price, missing documentation), they must be resolved with the vendor before proceeding.

V. Department Approval

- The department head signs the invoice packet (invoice + PO + receiving report) to confirm accuracy.
 - The department head is responsible for submitting a complete invoice package, including all supporting documents.
 - Town Voucher Certifying: "I hereby certify that the goods/services have been received and that this invoice is correct and just and should be paid."
 - Department head will provide complete package in a timely manner to
-

VI. Audit of Claims (Town Law §119)

- All claims against the Town must be presented to the **Town Board for audit** before payment.
 - The **Town Clerk** prepares an abstract of audited claims, listing each claim, vendor, and amount.
 - The **Town Board reviews and approves** the abstract at a public meeting by resolution.
-

VII. 6. Payment

- After Board approval, the **Town Supervisor** (as CFO) issues checks.
- All checks must be signed by the Supervisor and one other authorized signatory (if Town policy requires dual signatures).
- Payments must refer to the approved abstract and be charged to the proper budget line.

VIII. 7. Filing and Recordkeeping

- Each invoice packet (PO + invoice + receiving slip + approvals) is filed chronologically by abstract number.
- Records are retained for a minimum of **six (6) years** in accordance with the NYS Records Retention Schedule (LGS-1).

IX. 8. Special Notes

- **Utilities, debt service, postage, and similar recurring bills** may be paid prior to audit if necessary to avoid penalties but must be presented at the **next regular Board meeting** for audit and approval.
 - **Emergency payments** must be documented and ratified by the Town Board at the next meeting.
 - **Sales tax exemption:** All purchases must be tax-exempt; the Town's exemption certificate must be provided to vendors.
-

Town of Berne – Standard Voucher (Example)

This voucher is to be completed by the claimant and must be submitted with a properly itemized invoice or bill. No claim shall be audited or paid unless it is accompanied by this completed voucher form in compliance with Town Law §118.

Vendor/Claimant Name:	
Vendor Address:	
Purchase Order Number:	
Invoice Number(s):	
Description of Goods/Services:	
Date(s) of Service/Delivery:	
Amount Claimed:	
Budget Code to be Charged:	

CERTIFICATION BY CLAIMANT:

I, the undersigned, do hereby certify that the above account is just, true, and correct; that the goods, materials, or services charged were actually delivered or rendered; that no part thereof has been paid; and that the amount claimed is actually due and owing.

Signature of Claimant: _____ Date: _____

Print Name: _____

DEPARTMENT APPROVAL:

I hereby certify that the above goods/services were received, inspected, and approved for payment.

Department Head Signature: _____ Date: _____

TOWN BOARD AUDIT:

This claim has been audited and approved by the Town Board on the date shown below and is hereby authorized for payment.

Town Board Approval Date: _____ Abstract No: _____

SUPERVISOR AUTHORIZATION:

Check Number: _____ Date Issued: _____

Supervisor Signature: _____

Town of Berne

Audit of Claims Policy 03-2026

Adopted by the Town Board on 1/1/26: Resolution 7 of 2026

I. Purpose

The purpose of this policy is to ensure that the Town of Berne conducts audits of all claims in compliance with New York State Town Law §118 and 119, and in a manner that fosters transparency, efficiency, and the prudent use of public funds. In addition, the purpose of this policy is to employ industry standard procurement and accounting functions (i.e., encumbrances prior to purchase) to ensure compliance with budget appropriations.

The Town Board acts as the Auditor for the expenditure of all town funds and shall be responsible for assuring that all are made in accordance with this policy.

Every procurement official with the requisite purchasing authority (hereinafter "purchaser") shall estimate the cumulative amount of the items of supply or equipment needed in a given fiscal year. That estimate shall include the canvass of other Town departments and past history to determine the likely yearly value of the commodity to be acquired. The information gathered and conclusions reached shall be documented and kept with the file or other documentation supporting the purchase activity.

II. Purpose & Authority

This policy implements the requirements of Town Law § 118 & 119 ("Audit of claims and issuance of warrants") and related statutes, and establishes procedures for presentation, audit, allowance or disallowance, and payment of claims against the Town. The scope of this authority includes all claims against the Town, including, but not limited to, expenditures for vendors and personnel expenses.

Definitions

For purposes of this policy:

- **Claim / Voucher** — A documented request for payment to the Town, including an itemized voucher and supporting documentation, as required by Town Law § 118.

- **Warrant** — An order drawn by the Town Supervisor (or other authorized officer) directing the payment of an audited and allowed claim.
 - **Officer whose action gave rise to the claim** — The Town officer, department head, or employee whose actions or responsibilities relate to the goods, services, or works for which the claim is made.
 - **Auditing** — The process of examining a claim for justness, accuracy, appropriateness, sufficiency of supporting documentation, and compliance with law and Town policy, before allowance or disallowance.
-

III. Presentation of Claims / Vouchers

- Itemized voucher form**
All claims must be submitted on an itemized voucher form (or in electronic form approved by the Town), in the format prescribed by the Town Board. The voucher shall set forth sufficient detail to allow the Town Board to audit the claim.
 - Certification / Approval by responsible officer**
Each voucher must be accompanied by a statement by the officer whose action gave rise to the claim, certifying that the services were actually rendered or the supplies or equipment actually delivered, and that the claim is just and proper. This statement may be based on review of documentary evidence.
 - Additional certifications**
The Town Board may require that the claimant also certify or verify the voucher. (See Town Law § 118.)
 - Submission deadlines**
All claims to be considered at a particular Town Board meeting must be submitted to the Town Clerk (or designated office) no later than **2 (two)** days before that meeting (or such other time as established by resolution).
-

IV. Audit of Claims

- Audit responsibility**
 - The Town Board shall audit claims. (Town Law § 118 & 119)
 - **Scope of audit:** The audit shall examine the justness and accuracy of each claim, including checking the supporting documentation, verifying that the services or goods were provided, ensuring compliance with statutes, Town contracts, procurement and

internal control policies, and determining whether the expenditure is a proper Town charge.

- **Disallowance:** If any part or all of a claim is disallowed, the auditor (Town Board) shall report the disallowance, and direct the officer responsible to reimburse any disallowed portion to the appropriate fund or petty cash account. If reimbursement has not been made before the next payment, the disallowed amount may be withheld from payment, and if needed from subsequent payments, until paid. (Under Town Law § 64 and related provisions).
 - **Record of audit:** The Town shall maintain logs or records (electronic or paper) showing each claim presented, the date, its disposition (allowed or disallowed, in whole or in part), the amount allowed, and dates of payment.
-

V. Issuance of Warrants / Payment

a. Town Board direction to pay

After the audit, the Town Board shall direct the Supervisor (or other authorized officer) by warrant what amounts are to be paid on the claims allowed. (Town Law § 119)

b. **Supervisor to pay:** Upon receipt of the warrant, the Supervisor shall draw checks or make payments in the amounts designated and deliver them to the claimant's, provided funds are available.

c. **Insufficient funds:** If funds are insufficient to pay all allowed claims, the Supervisor shall pay such claims in whole or in part as the Town Board directs, and unpaid amounts shall be carried forward to be paid when funds become available.

d. **Timing:** Payments generally shall be made within **30** days of the warrant (or in the next feasible payment cycle), unless another schedule is adopted by resolution.

VI. Internal Controls & Safeguards

a. **Segregation of duties:** Where feasible, responsibilities for preparing, certifying, auditing, and issuing payments should be separated among different individuals to reduce risk of error or fraud.

b. **Supporting documentation:** Each claim must be supported by invoices, time records,

purchase orders, contracts, delivery receipts, or other documentation sufficient to substantiate the claim.

c. **Review of large or unusual claims:** Claims exceeding a threshold (e.g. \$____) or with unusual terms or vendors must receive additional review (e.g. by Town Board, Comptroller, or independent reviewer).

d. **Audit trails:** All modifications, cancellations, or adjustments to claims or vouchers must be documented, with reason, date, and approver signatures or electronic records.

e. **Periodic reconciliation**

The Comptroller or auditor shall periodically (e.g. quarterly) reconcile claims paid, warrant records, bank statements, and general ledger to ensure consistency and detect anomalies.

f. **Encumbrance vs Short Warrant:** Whenever possible, funds will be encumbered via a purchase order. Should circumstances warrant, the Town Supervisor may authorize payment of warrant without issuance of a purchase order.

VII. Reporting & Transparency

- a. **Claim list at meetings:** At each regular Town Board meeting, a sheet or list of all claims audited and recommended for payment, grouped by fund (e.g. General, Highway, Water), along with summary totals, shall be presented to the Board for final direction.
- b. **Access to records:** Vouchers and supporting documentation for allowed claims are public records subject to disclosure under the Freedom of Information Law (FOIL), unless exempt.
- c. **Annual report:** As part of the Town's annual report, summary statistics (e.g. total claims audited, disallowed amounts, largest claims) shall be included.

VIII. Exceptions and Special Provisions

- a. **Emergency claims:** In emergency situations where immediate payment is required (e.g. imminent danger, urgent repairs), the Town Supervisor (or designated official) may authorize payment in advance of formal audit, subject to later audit and approval by the Board. Any such advance must be documented, reported at the next Board meeting, and audited like other claims.
- b. **Interfund claims:** Claims between Town funds (e.g. internal transfers) shall follow similar voucher and audit procedures, unless exempted by law or resolution.

c. **Electronic payments / direct deposit / electronic claims:** If the Town uses electronic claims submission or electronic payments, additional internal control standards (e.g. authentication, access control, audit logs) shall apply, consistent with this policy.

Short Warrant: The Town Board hereby determines that certain recurring, time-sensitive obligations must be paid prior to formal audit in order to protect the financial interests of the Town, avoid service disruptions, and maintain essential operations. The Town Board affirms that the use of payment prior to audit is intended as a limited administrative tool and not as a substitute for the Board's statutory audit responsibilities. In accordance with New York Town Law §118, the Town Board authorizes the Supervisor to make payment **prior to Board audit** for the following categories of claims:

1. **Utility services**, including but not limited to electricity, heating fuel, natural gas, water, sewer, telephone, internet, and solid waste disposal.
2. **Fuel purchases**, including gasoline, diesel, heating fuel, and other fuels necessary for the continuous operation of Highway Department vehicles, emergency equipment, and Town facilities.
3. **Postage and shipping**, including postage meter refills, USPS charges, and shipping fees required for timely mailing of official Town documents or payments.
4. **Payroll and payroll related expenses**, including but not limited to, salaries and wages, NYS Retirement benefits, NYS deferred Compensation payments, worker's compensation insurance, medical insurance premiums, court-ordered withholdings & reimbursable items detailed in collective bargaining agreements including union dues
5. **Insurance premiums**
6. **Debt service**, including principal and interest payments
7. **Other contractual obligations** where the payment date is fixed by statute or contract and late payment would result in penalty or service disruption, as approved by the Town Board.

All such claims shall be:

- Paid as necessary to avoid late fees, service interruption, or operational hardship.
- Properly itemized and accompanied by acceptable supporting documentation; and
- **Presented to the Town Board at the next regular meeting for audit and approval**, at which time they shall be reviewed in the same manner as all other claims.

No other claims shall be paid prior to audit unless explicitly authorized by law or by resolution of the Town Board.

d. **Modification by local law or resolution:** If the Town has locally adopted modifications (by Local Law or resolution) that are permitted under Town or General Municipal Law, those modifications will control to the extent they comply with State law.

IX. Enforcement & Sanctions

Any officer or employee who willfully submits a false voucher, misuses funds, or fails to comply with this policy may be subject to disciplinary action, reimbursement of disallowed amounts, and referral to appropriate authorities for further action.

X. Review and Amendment

This policy shall be reviewed by the Town Board at least annually (or upon significant statutory change), and may be amended by resolution (or local law, as required), provided changes do not conflict with State law.

Attachments

Audit of Claims

Town of Berne, NY

Warrant for Payment of Claims (Example)

To: **Town Supervisor, Town of Berne, NY**
From: **Town Board of the Town of Berne, NY**
Date: _____, 2026

WHEREAS, pursuant to the provisions of Town Law §§ 118 and 119, all claims against the Town must be itemized, presented, audited, and allowed before payment; and

WHEREAS, the Town Board has this day audited the claims and payroll abstracts as presented, and has allowed them in whole or in part as set forth below;

NOW, THEREFORE, THIS WARRANT DIRECTS the Supervisor of the Town of Berne, NY to pay from the respective funds the amounts allowed, as follows:

Fund	Voucher Numbers	Description	Amount Allowed
General Fund (A)	#__ to #__	Claims audited	\$_____
Highway Fund (DA/DB)	#__ to #__	Claims audited	\$_____
Water Fund (SW)	#__ to #__	Claims audited	\$_____
Sewer Fund (SS)	#__ to #__	Claims audited	\$_____
Payroll	Abstract #__	Pay period ending _____	\$_____
TOTAL			\$_____

IT IS FURTHER ORDERED that the Supervisor shall issue checks or electronic payments in the amounts specified and deliver them to the claimants and employees entitled thereto.

By Order of the Town Board of the Town of Berne, NY

Dated: _____, 2025

Town Clerk

Attest:

Town Board Member

Town Board Member

Town Board Member

Town Board Member

Town Supervisor (as Presiding Officer)

Town of Berne

Payroll Audit Policy 04-2026

Adopted by the Town Board on 1/1/26: Resolution 8 of 2026

I. Purpose

This policy establishes clear procedures for the review and audit of payroll to ensure compliance with New York State Town Law, safeguard public funds, and provide accountability in the administration of employee compensation.

II. Authority

Pursuant to Town Law §§ 119, 125, and guidance from the Office of the State Comptroller (OSC), the Town Board has the responsibility to audit and approve claims prior to payment, except as otherwise permitted by statute for fixed salaries and regularly recurring compensation.

III. Policy

1. Board Oversight

- The Town Board retains ultimate responsibility for auditing payroll claims.
- The statutory exception allowing routine payroll disbursement without prior audit applies only to fixed salaries and regular wages, but all such payments remain subject to post-audit review (see IV. Pre-Audit Payroll Authorization)

2. Certification of Payroll

- All payroll registers must be certified by the appropriate department head, confirming accuracy of hours worked, leave accruals, and compliance with collective bargaining agreements, contracts, or Board resolutions.
- The Supervisor or designated payroll officer shall verify that certifications are received before any payroll disbursement is made.

3. Audit Procedure

- At each regular Board meeting, the Supervisor shall present payroll registers and supporting documentation for Board audit.
- Supporting documentation includes:
 - Payroll register or summary
 - Time records and attendance sheets

Town of Berne

Employee Hiring Policy and Procedures 06-2026

Adopted by the Town Board on 1/1/26: Resolution 9 of 2026

I. Purpose:

To establish a uniform, transparent, merit-based hiring process for the Town of Berne that complies with New York State Civil Service Law, Albany County Civil Service rules, and NYS Comptroller guidance, while acknowledging the statutory hiring authority of the elected Highway Superintendent.

II. Scope:

This policy applies to all Town of Berne departments, appointing authorities, hiring managers, supervisors, and personnel involved in recruiting, selecting, appointing, and onboarding employees, except for positions in the Highway Department where the elected Highway Superintendent has independent appointment authority under NYS Town Law §140.

All Highway Department appointments must still comply with Civil Service Law and Comptroller payroll and recordkeeping requirements. In accordance with the scope of this policy, the Highway Superintendent is greatly encouraged to incorporate all segments of this policy as best management practices.

III. Job Classification and Authorization:

- Confirm civil service classification with Albany County Civil Service before recruitment.
- All new positions or changes require Town Board approval (if required) and civil division review. In addition, if a job title is represented by collective bargaining agreement, any and all promotional/hiring covenants will be adhered to.
- Highway Department hires: Superintendent retains statutory hiring authority; civil service verification is still required. The Superintendent, if serving in an alternate capacity, does not have the appointment authority described in NYS Town Law §140 for non-highway departments (i.e., solid waste, parks, maintenance, etc).

IV. Recruitment and Posting:

- Competitive positions: must use civil service eligible list.
- All vacancies will be publicly posted, with job descriptions, for a period of not less than two weeks. The posting shall include minimum requirements, rate of compensation and necessary work hours.
- All employees (including Highway Department employees) must be properly classified (competitive, non-competitive, labor, exempt) and appointed from civil service list when required. Provisional, temporary or seasonal appointments must follow Civil Service rules.

V. Candidate Screening and Selection:

- Job-related qualifications determine hiring decisions.
- Interview panels are recommended but optional for Highway Department hires.

VI. Provisional Appointments:

- Allowed only under Civil Service Law. Highway Department hires may be provisional if eligible lists are unavailable.

VII. Conditional Offers, Background Checks, and Pre-Employment Requirements:

- Conditional offers must be in writing and comply with civil service eligibility, background checks, and payroll onboarding. Background checks will be conducted after a conditional offer of employment; final offer of employment will be contingent upon review of background checks.
- Highway Superintendent is required to complete these steps.

VIII. Appointment, Documentation and Payroll Setup:

- All hires require civil service verification (if competitive), payroll setup, and documentation submission.
 - Highway Superintendent hires: maintain all records, submit payroll forms, and comply with Comptroller guidance.
-

IX. Probation, Training and Evaluation:

- All new hires, including Highway Department employees, will serve a minimum probationary period of one-hundred and eighty (180) calendar days. The Town reserves the right to extend that period. Should the employee's performance not meet expectations, the town reserves the right to extend the probation period for an additional six months (with an approved employee performance improvement plan) or terminate the employee.
-

X. Equal Employment Opportunity and Non-Discrimination:

- All hires must comply with federal, state, and local anti-discrimination laws.
-

XI. Recordkeeping and Internal Controls:

- Maintain job postings, applications, interview notes, appointment paperwork, civil service verification, payroll forms, and probation evaluations.
 - Highway Department hires: records must be submitted to Town Clerk / Payroll Officer to ensure audit-ready compliance.
-

XII. Appointing Authority Responsibilities:

- Department heads must follow this policy except where overridden by statutory authority (Highway Superintendent).

- Highway Superintendent: retains independent hiring authority but must provide documentation for civil service, payroll, and Comptroller compliance.
-

Appendices

- Job Posting Templates (Competitive & Non-Competitive)
- Hiring Checklist
- Interview Scoring Form
- Conditional Offer Letter Template
- Payroll Onboarding Checklist

Employee Hiring Policy — Appendices

Appendix A — Job Posting Templates

A.1 Competitive Class Posting (Civil Service Eligible List Required)

Position Title: [Civil Service Title]

Department: [Department]

Location: Town of Berne, NY

Classification: Competitive — Must be reachable on an Albany County Civil Service eligible list.

Salary/Hourly Rate: \$[range or per union contract]

Minimum Qualifications: As specified by Albany County Civil Service for this title.

Application Deadline: [Date]

How to Apply: Submit a completed Town of Berne employment application and résumé to:

[Department Head / Town Clerk Office Address / Email].

Notes: Candidates must be reachable on the Albany County Civil Service eligible list for [title]. Appointment is subject to Civil Service approval and successful completion of a probationary period.

A.2 Non-Competitive / Labor / Exempt Class Posting

Position Title: [Civil Service Title]

Department: [Department]

Location: Town of Berne, NY

Classification: Non-Competitive / Exempt / Labor (per Civil Service classification).

Salary/Hourly Rate: \$[range or per union contract]

Minimum Qualifications: [Insert specific qualifications, licenses, or experience].

Application Deadline: [Date]

How to Apply: Submit a completed Town of Berne employment application and résumé to:

[Department Head / Town Clerk Office Address / Email].

Notes: Appointment subject to verification of qualifications, background/reference checks, and successful completion of a probationary period.

Appendix B — Hiring Checklist

- ☐ Confirm job title and classification with Albany County Civil Service.
 - ☐ Obtain Town Board authorization (if required) and verify budgeted funds.
 - ☐ Draft job posting using appropriate template.
 - ☐ Post vacancy (civil service, Town website, Clerk's office, additional postings as allowed).
 - ☐ Collect applications and verify civil service eligibility (if competitive).
 - ☐ Screen candidates for minimum qualifications.
 - ☐ Conduct interviews using standard questions.
 - ☐ Complete interview scoring forms and maintain records.
 - ☐ Select finalist; document selection decision.
 - ☐ Issue conditional offer letter (pending background, references, tests).
 - ☐ Complete background/reference checks (with applicant consent).
 - ☐ File civil service appointment paperwork with Albany County Civil Service.
 - ☐ Complete payroll onboarding checklist (I-9, W-4, NYS tax, direct deposit, ID reservation).
 - ☐ Provide new hire with Town policies and employee handbook.
 - ☐ Begin probationary period evaluation process.
-

Appendix C — Interview Scoring Form

Position Title: _____

Candidate Name: _____

Date of Interview: _____

Evaluation Criteria (score 1–5; 5 = excellent):

- Job-related knowledge: ____
- Relevant experience: ____
- Communication skills: ____
- Problem-solving/initiative: ____
- Professionalism: ____
- Overall suitability: ____

Panel Member Name: _____ Signature: _____

Comments/Notes:

Appendix D — Conditional Offer Letter Template

[Date]

[Applicant Name]

[Applicant Address]

Dear [Applicant Name],

We are pleased to extend to you a conditional offer of employment with the Town of Berne for the position of [Title]. This offer is contingent upon:

1. Verification of your qualifications and civil service eligibility (if applicable).
2. Successful completion of required background/reference checks.
3. Completion of pre-employment forms (I-9, W-4, NYS tax forms, direct deposit).
4. [If applicable: successful completion of drug/alcohol testing or medical examination as required for this position.]

Your anticipated start date is [Date], subject to completion of the above conditions and approval by Albany County Civil Service. The position is subject to a probationary period of [X months] as defined by Civil Service Law.

Please confirm your acceptance of this conditional offer by signing below and returning a copy to the Town Clerk's Office.

Sincerely,

[Appointing Authority Name/Title]

Accepted by: _____ Date: _____

Appendix E — New Hire Payroll Onboarding Checklist

- ☐ Completed and signed I-9 (with acceptable documents verified).
- ☐ Completed W-4 and NYS tax form (IT-2104).
- ☐ Direct deposit form (with voided check or bank letter).
- ☐ Signed acknowledgment of Town policies and employee handbook.
- ☐ Benefit enrollment forms (health, retirement, if eligible).
- ☐ Civil service appointment confirmation filed with Albany County.
- ☐ Employee ID reserved and hire transaction entered into payroll system.
- ☐ Notify Town Board (if required) of hire and effective date.
- ☐ Create personnel file with all hiring documentation.

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.org

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.org

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.
-

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.
-

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:
 - o Personal contact information,
 - o Medical or employment history,
 - o Information of a personal nature that is not relevant to the work of the Town,
 - o 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:
 - o Expose individuals to threats, harassment, or violence,
 - o Reveal sensitive locations such as residence addresses of vulnerable persons,
 - o Identify individuals in matters involving domestic violence, stalking, or other safety risks,
 - o 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.

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 **XXXXXX**

Appendix A: Sample FOIL Request Form

Freedom of Information Law (FOIL) Request

Requester Name: _____

Address: _____

Email/Phone: _____

Description of Records Requested:

Preferred Format (paper/email): _____

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
-

Town of Berne

Town Board Annual Audit Policy 15-2026

Adopted by the Town Board on 1/1/26: Resolution 11 of 2026

I. Purpose

The purpose of this policy is to formalize the Town Board of the Town of Berne's responsibility to **annually audit, or cause to be audited**, the books, records, and reports of Town officers and employees who receive, collect, hold, or disburse Town funds. This policy establishes clear **annual audit responsibilities of Town Board members** in accordance with guidance issued by the New York State Office of the State Comptroller (OSC).

II. Authority

This policy is adopted pursuant to the Town Board's statutory responsibility to require annual accounting and examination of the financial records of Town officers and employees who handle public funds, including but not limited to those offices identified in this policy. The Town Board retains ultimate responsibility for ensuring that required annual audits are completed, documented, and acted upon.

III. Scope – Offices Subject to Annual Audit

The Town Board shall annually audit, or cause to be audited, the following Town of Berne offices and positions:

1. **Town Supervisor**
 - Including all Supervisor financial records, bank accounts, and reports related to Town funds.
2. **Bookkeeper**
 - Including accounting records, journal entries, bank reconciliations, abstracts, payroll processing records (excluding collective bargaining compliance determinations), and supporting documentation.
3. **Justice Court**
 - Including the Justice Court Fund, bail accounts, trust funds, monthly and annual reports, and compliance with OSC Justice Court accounting requirements.

4. **Tax Collector**
– Including all tax collection records, deposits, bank accounts, settlements, and final accounting reports.
5. **Town Clerk**
-Including all Supervisor financial records, bank accounts, and reports related to Town funds
6. **Town Highway Superintendent**
-Including all Supervisor financial records, bank accounts, and reports related to Town funds

The Town Board may expand the scope of audits to include any additional funds, accounts, or activities as deemed necessary.

IV. Annual Audit Timing

A. Frequency

Each office listed above shall be audited **at least once per fiscal year**.

B. Justice Court Deadline

The annual Justice Court audit shall be completed **no later than June 30** following the close of the fiscal year, unless otherwise permitted by law or OSC guidance.

C. Transition Audits

When an officer or employee who handles Town funds leaves office or employment, the Town Board shall ensure that an audit of the outgoing period is conducted as soon as practicable.

V. Assignment of Town Board Member Responsibilities

A. Audit Responsibility

The Town Board shall conduct annual audits either:

- as a **committee of the whole**, or
- by appointing an **Annual Audit Committee** consisting of at least two (2) members of the Town Board.
- A audit firm or CPA may conduct audits however this does not eliminate the board's oversight duty.

B. Designation by Resolution

Each year, the Town Board shall, by resolution, designate:

- the Town Board member(s) assigned to audit each office,

- the audit period to be reviewed, and
- a target completion date.

C. Independence and Objectivity

No Town Board member shall audit an office or function in which they have day-to-day operational involvement or responsibility that would impair independence.

D. Lead Auditor Responsibilities

The designated lead auditor or committee chair shall:

- coordinate with the audited office to obtain records,
- ensure OSC audit checklists and guidance are used,
- document audit procedures and findings, and
- present results to the full Town Board.

VI. Minimum Audit Procedures

At a minimum, each annual audit shall include procedures sufficient to verify:

1. Cash receipts agree with deposit records and bank statements
2. Disbursements are properly supported, authorized, and recorded
3. Bank accounts are reconciled and reconciling items are reasonable
4. Funds are properly accounted for and safeguarded
5. Required reports are timely, accurate, and complete

Justice Court audits shall be conducted using OSC's **Justice Court Annual Audit Checklist**.

VII. Documentation and Recordkeeping

A. Written Audit Report

Each audit shall be documented in writing and shall include:

- audit period covered,
- procedures performed,
- findings or exceptions (if any),
- recommended corrective actions,
- signatures of Town Board members conducting the audit, and
- date of completion.

B. Town Records

Completed audit reports and checklists shall be retained by the Town Clerk as official Town records.

C. Board Minutes

Completion of each annual audit shall be noted in the Town Board meeting minutes.

VIII. Findings, Corrective Action, and Follow-Up

If deficiencies or concerns are identified:

- the Town Board may require a written corrective action response from the audited office,
 - deadlines for corrective action may be established, and
 - follow-up reviews may be scheduled to ensure resolution.
-

IX. Relationship to Claims Auditing

This Annual Audit Policy is separate from the Town's claims auditing process. Adoption of this policy does not alter the Town Board's responsibilities related to the auditing and approval of claims for payment.

X. Effective Date and Review

This policy shall take effect immediately upon adoption by the Town Board of the Town of Berne and shall be reviewed periodically to ensure continued compliance with applicable law and OSC guidance.

Town of Berne, New York

Drug and Alcohol Policy (17 of 2026)

Adopted by Resolution of the Town Board on 2/11/26: Resolution 29 of 2026

1. PURPOSE AND POLICY STATEMENT

The Town of Berne ("Town") is committed to providing a safe, healthy, and efficient workplace; protecting the public; and complying with all applicable federal and state laws governing drug and alcohol use in the workplace.

This Policy establishes standards and procedures for drug and alcohol testing in conformity with:

- The **Omnibus Transportation Employee Testing Act of 1991**,
- **U.S. Department of Transportation (DOT)** regulations, including **49 CFR Parts 40 and 382**, and
- Applicable provisions of the **Town of Berne Employee Handbook**, collective bargaining agreements (CBAs), and New York State law.
- Safety-sensitive functions are defined in **Appendix A**
- Alcohol prohibitions and timing rules are set forth in **Appendix B**
- Supervisor determinations shall be documented in accordance with **Appendix C**
- Post-accident testing requirements and procedures are set forth in **Appendix D**
- Post-accident flow chart for supervisors is found in **Appendix E**
- Employees working under federal grants are subject to additional drug-free workplace requirements as set forth in **Appendix F**
- New York State cannabis law and its application to the workplace are addressed in **Appendix G**.
- Supervisor Cannabis Impairment Observation Guide is located in **Appendix H**

Nothing in this Policy shall be interpreted to reduce or eliminate employee rights under applicable CBAs, civil service law, due process requirements, or grievance and arbitration procedures.

2. SCOPE AND APPLICABILITY

A. DOT-Covered Employees

This Policy **mandatorily applies** to all Town employees who perform **safety-sensitive functions** as defined by federal law, including but not limited to:

- Employees required to hold a **Commercial Driver's License (CDL)**, and
- Employees who operate Town vehicles or equipment requiring a CDL.

DOT-covered employees are subject to **all testing categories and requirements** mandated by federal law.

B. Non-DOT Employees

For employees **not subject to DOT regulations**, drug and alcohol testing may occur **only where permitted by law**, the Town Employee Handbook, and applicable CBAs, and shall be limited to circumstances such as reasonable suspicion or post-incident testing, where legally authorized.

3. PROHIBITED CONDUCT

The following conduct is strictly prohibited:

1. Reporting for duty or remaining on duty **under the influence of drugs or alcohol**.
 2. Use, possession, manufacture, distribution, or sale of:
 - Illegal drugs, or
 - Controlled substances without a valid prescription.
 3. Alcohol use:
 - While performing safety-sensitive duties, or
 - Within the prohibited time periods established by DOT regulations.
 4. Refusal to submit to a required drug or alcohol test.
 5. Tampering with, adulterating, or attempting to substitute a test specimen.
-

4. REQUIRED TESTING CATEGORIES (DOT-COVERED EMPLOYEES)

DOT-covered employees shall be subject to testing under the following circumstances, as required by federal law:

1. **Pre-Employment / Pre-Placement**
2. **Random Testing**
3. **Post-Accident Testing**
4. **Reasonable Suspicion Testing**

5. **Return-to-Duty Testing**
6. **Follow-Up Testing**

All testing shall be conducted in strict accordance with **49 CFR Part 40** procedures.

5. REASONABLE SUSPICION TESTING

Reasonable suspicion testing may be required when a trained supervisor observes specific, contemporaneous, articulable indicators of drug or alcohol use, including but not limited to:

- Observable behavior,
- Appearance,
- Speech patterns,
- Body odors, or
- Unsafe or erratic conduct.

Supervisors making such determinations shall document observations in writing and shall have received required training under DOT regulations where applicable.

6. TESTING PROCEDURES AND SAFEGUARDS

1. All testing shall be conducted by **certified laboratories** and **Medical Review Officers (MROs)**.
 2. Chain-of-custody procedures shall be strictly followed.
 3. Confidentiality of test results shall be maintained as required by law.
 4. Employees shall be provided with the required notices, explanations, and access to testing records as permitted.
-

7. PRESCRIPTION MEDICATIONS

Employees must inform their healthcare provider of their job duties when prescribed medication.

DOT-covered employees shall not perform safety-sensitive functions if a prescribed medication adversely affects their ability to safely perform those duties, as determined by the MRO.

8. REFUSAL TO TEST

Refusal to submit to a required test includes, but is not limited to:

- Failure to appear for testing when directed,
- Failure to remain at the testing site,
- Failure to provide a sufficient specimen without medical explanation,
- Adulteration or substitution of a specimen.

Refusal constitutes a violation of this Policy and, for DOT-covered employees, federal law.

9. CONSEQUENCES OF POLICY VIOLATIONS

A. DOT-Covered Employees

Violations shall be addressed in accordance with:

- Federal DOT regulations,
- This Policy,
- The Town Employee Handbook, and
- Applicable CBAs.

DOT regulations may require immediate removal from safety-sensitive duties and completion of a **Substance Abuse Professional (SAP)** process before returning to duty. Violation of this policy may result in disciplinary action, up to and including termination of employment. If an employee's job performance deteriorates or accidents occur due to use of alcohol, drugs, and marijuana or repeated multiple failure of the employee to perform his/her duty and being impaired at work or during working hours and on duty may subject the employee to disciplinary action including and not limited to termination. Refusal of testing is interpreted as a failure and as such, the employee will be subject to the same discipline as if the employee provided a positive test result.

B. Non-DOT Employees

Discipline shall be administered consistent with:

- The Town Employee Handbook,
 - Progressive discipline standards,
 - Due process requirements, and
 - Applicable CBAs.
-

10. EMPLOYEE ASSISTANCE AND REHABILITATION

The Town encourages employees to seek assistance for substance abuse issues.

Participation in an Employee Assistance Program (EAP), where available, or voluntary rehabilitation **prior to a testing violation** will not, by itself, subject an employee to discipline, provided job performance and safety are not compromised.

Nothing in this section limits mandatory actions required by DOT regulations.

11. COLLECTIVE BARGAINING AND LEGAL COMPLIANCE

This Policy shall be administered in a manner consistent with:

- Collective bargaining agreements,
- New York State Civil Service Law,
- Due process requirements, and
- The grievance and arbitration procedures established therein.

Where a conflict exists, **federal law shall control**, followed by CBAs, then the Town Employee Handbook.

12. POLICY ADMINISTRATION

The Town Supervisor, or designee, is authorized to administer this Policy, designate testing vendors, and ensure regulatory compliance.

Supervisors shall receive training as required by law.

13. ACKNOWLEDGMENT

All covered employees shall receive a copy of this Policy and acknowledge receipt in writing.

APPENDIX A - SAFETY-SENSITIVE FUNCTIONS

(Federal Definition – DOT / CDL-Covered Employees)

Authority

This Appendix is adopted pursuant to the **Omnibus Transportation Employee Testing Act of 1991** and implementing regulations of the **U.S. Department of Transportation**, including **49 CFR Part 382** as administered by the **Federal Motor Carrier Safety Administration (FMCSA)**.

This Appendix shall be read in conjunction with, and incorporated into, the Town of Berne Drug & Alcohol Testing Policy and Employee Handbook.

A-1. Definition

For purposes of federal drug and alcohol testing requirements, a **“safety-sensitive function”** means **all time** from the moment a CDL-covered employee begins work or is required to be in readiness to work until the employee is relieved from duty and responsibility for performing work.

A-2. Covered Employees

This Appendix applies to **all Town of Berne employees who are required to hold a Commercial Driver’s License (CDL)** or who perform duties that require the use of a CDL, regardless of job title or department.

A-3. Safety-Sensitive Functions

The following activities are deemed **safety-sensitive functions** under **49 CFR §382.107**:

A-3.1 Operation of a Commercial Motor Vehicle (CMV)

All time spent **driving or operating** a commercial motor vehicle, whether on public or private property, including but not limited to:

- Operating Town-owned or leased trucks, plow trucks, dump trucks, or heavy equipment requiring a CDL
- Snow and ice control operations
- Driving to or from work sites, garages, transfer stations, or suppliers

A-3.2 Waiting to Be Dispatched / Readiness to Operate

All time spent **waiting to be dispatched**, unless formally relieved from duty, including:

- Standby time at the Highway Garage
 - On-call time requiring immediate availability to operate a CMV
 - Pre-assignment staging for storms, emergencies, or scheduled work
-

A-3.3 Inspection, Servicing, and Conditioning of CMVs

All time spent performing **pre-trip, en-route, or post-trip inspections**, servicing, or conditioning of a CMV, including:

- Brake, steering, and safety system checks
 - Lighting and warning equipment inspections
 - Fluid checks
 - Attachment inspections for plows, spreaders, trailers, or similar equipment
-

A-3.4 Loading and Unloading Activities

All time spent **loading or unloading** a CMV, supervising loading or unloading, or remaining in readiness to operate the vehicle, including:

- Loading salt, sand, gravel, asphalt, debris, or equipment
 - Securing or tarping loads
 - Monitoring mechanical loading equipment where vehicle operation is imminent
-

A-3.5 Vehicle Attendance and Readiness

All time spent **in or upon a CMV**, except for time spent resting in a sleeper berth, including:

- Sitting in the cab while the engine is running
- Monitoring vehicle systems
- Waiting in the vehicle for instructions or dispatch

A-3.6 Repair and Maintenance Related to Operation

All time spent performing **repairs or maintenance** on a CMV when such work is directly related to vehicle safety and readiness for operation, including:

- Emergency roadside repairs
 - Safety-critical mechanical adjustments
 - Operational checks necessary prior to vehicle use
-

A-3.7 Accident-Related Duties

All time spent performing **post-accident functions**, including:

- Remaining at an accident scene
 - Completing accident documentation
 - Cooperating with law enforcement or supervisory personnel
 - Securing vehicles, cargo, and equipment
-

A-3.8 Other Federally Designated Duties

Any other duty designated as safety-sensitive under **49 CFR Part 382** or successor regulations.

A-4. Legal Effect and Compliance

1. **Alcohol use is strictly prohibited** while performing safety-sensitive functions and during all federally mandated pre- and post-duty prohibition periods.
 2. Drug and alcohol testing requirements apply whenever an employee **is performing, is about to perform, or has just ceased performing** a safety-sensitive function.
 3. An employee may not avoid testing by asserting that they were “not driving” if they were otherwise engaged in a safety-sensitive function.
-

A-5. Town of Berne Application

Within the Town of Berne, safety-sensitive functions **primarily apply to Highway Department personnel**, including the Highway Superintendent, Motor Equipment Operators, and any other employee required to hold or use a CDL, regardless of job title.

APPENDIX B -ALCOHOL PROHIBITION TIMING & RESTRICTIONS

(DOT / CDL-Covered Employees)

Authority

This Appendix is adopted pursuant to **49 CFR Part 382**, as administered by the **U.S. Department of Transportation** and the **Federal Motor Carrier Safety Administration (FMCSA)**.

B-1. On-Duty Prohibition

A CDL-covered employee **shall not use alcohol** while:

- Performing a safety-sensitive function (see Appendix A); or
 - Remaining on duty or in readiness to perform such functions.
-

B-2. Pre-Duty Alcohol Prohibition (4-Hour Rule)

A CDL-covered employee **shall not perform safety-sensitive functions within four (4) hours** after using alcohol.

B-3. Post-Accident Alcohol Prohibition

Following an accident requiring testing:

- Alcohol use is **prohibited for eight (8) hours**, or
- Until the employee has submitted to an alcohol test, whichever occurs first.

If a test is not administered within two (2) hours, the Town shall document the reason.

B-4. Positive Alcohol Test Thresholds

Alcohol Concentration	Federal Consequence
0.02 – 0.039	Immediate removal from safety-sensitive duties for at least 24 hours
0.04 or greater	DOT violation; removal from duty; SAP process required

B-5. Refusal to Test

Refusal to submit to an alcohol test constitutes a **DOT violation** and is treated as a positive test result under federal law. Refusal to test may lead to disciplinary action up to and including termination of employment

APPENDIX C - SUPERVISOR REASONABLE SUSPICION CHECKLIST

(DOT-Required Documentation)

Authority

This checklist is required by **49 CFR §382.603** and must be completed by a supervisor who has received DOT-mandated training.

C-1. Employee Information

- Employee Name: _____
 - Job Title: _____
 - Date: _____ Time: _____
 - Location: _____
-

C-2. Observed Indicators (Check all that apply)

Appearance

- ☐ Bloodshot eyes
- ☐ Odor of alcohol
- ☐ Unsteady movement
- ☐ Disheveled appearance

Behavior

- ☐ Aggressive behavior
- ☐ Confusion or disorientation
- ☐ Mood swings
- ☐ Inappropriate responses

Speech

- ☐ Slurred speech
- ☐ Incoherent speech
- ☐ Abnormal speech patterns

Performance / Safety

- ☐ Unsafe operation of equipment
 - ☐ Poor coordination
 - ☐ Failure to follow instructions
-

C-3. Observation Certification

I certify that the above observations were made **contemporaneously** and form the basis for reasonable suspicion under federal law.

Supervisor Name: _____

Signature: _____

Date / Time: _____

C-4. Action Taken

- ☐ Employee removed from safety-sensitive duties
 - ☐ Employee directed to testing facility
 - ☐ Transportation provided (employee not permitted to drive)
-

APPENDIX D - POST-ACCIDENT DRUG & ALCOHOL TESTING REQUIREMENTS

(DOT / CDL-Covered Employees)

Authority

This Appendix is adopted pursuant to the **Omnibus Transportation Employee Testing Act of 1991** and **49 CFR §382.303**, and shall be read as a mandatory component of the Town of Berne Drug & Alcohol Testing Policy.

D-1. Applicability

Post-accident drug and alcohol testing **shall be conducted for all DOT-covered employees** performing safety-sensitive functions **when a qualifying accident occurs**, as defined below.

This Appendix applies **regardless of fault**, unless expressly exempted by federal regulation.

D-2. Definition of Accident

For purposes of this Appendix, an **“accident”** means an occurrence involving a commercial motor vehicle (CMV) operating on a public road that results in **any** of the following:

1. **A fatality**; or
 2. **Bodily injury** to a person who, as a result of the injury, **immediately receives medical treatment away from the scene**; or
 3. **Disabling damage** to any motor vehicle requiring it to be towed from the scene.
-

D-3. When Post-Accident Testing Is Required

A. Fatal Accident

Post-accident **drug and alcohol testing is mandatory** for the CDL-covered employee **regardless of fault**.

B. Non-Fatal Accident — Citation Issued

Post-accident testing is required when:

- The employee **receives a citation** under state or local law **for a moving traffic violation** arising from the accident; **and**
 - The accident involves either:
 - Bodily injury requiring off-scene medical treatment; or
 - Disabling damage to a vehicle requiring towing.
-

C. Non-Fatal Accident — No Citation

Post-accident testing **is not required** if no citation is issued; however, this does **not** limit the Town's authority to require testing under **reasonable suspicion** standards (see Appendix C), where legally permitted.

D-4. Testing Timeframes

Alcohol Testing

- Shall be administered **as soon as practicable**, but no later than:
 - **2 hours** after the accident (preferred), and
 - **8 hours** after the accident (maximum).

If alcohol testing is not conducted within:

- **2 hours**, the Town shall document the reason;
 - **8 hours**, the Town shall cease attempts and document the reason.
-

Drug Testing

- Shall be administered **as soon as practicable**, but no later than:
 - **32 hours** after the accident.

If drug testing is not conducted within 32 hours, the Town shall cease attempts and document the reason.

D-5. Employee Conduct Following an Accident

A CDL-covered employee involved in a qualifying accident:

1. **Shall remain readily available** for testing;

2. **Shall not consume alcohol for 8 hours following the accident**, or until testing occurs, whichever comes first;
3. **Shall not leave the scene** for the purpose of avoiding testing.

Failure to remain available or consumption of alcohol during the prohibited period **constitutes a refusal to test** under federal law.

D-6. Medical Treatment Exception

Nothing in this Appendix requires delay of **necessary medical treatment**.

An employee may leave the scene **solely to obtain medical care**, but must notify a supervisor as soon as practicable and remain available for testing thereafter.

D-7. Documentation Requirements

The Town shall maintain written documentation for:

- Decisions not to test;
- Delays in testing beyond federal time thresholds;
- Determinations regarding citations and accident classification.

Such documentation shall be retained in accordance with **49 CFR Part 382 recordkeeping requirements** and applicable Town retention schedules.

D-8. Effect of Positive Test or Refusal

A positive post-accident test or refusal to test:

- Requires **immediate removal from safety-sensitive duties**;
 - Triggers mandatory **Substance Abuse Professional (SAP)** referral;
 - May result in discipline consistent with:
 - Federal law,
 - The Town of Berne Employee Handbook, and
 - Applicable collective bargaining agreements.
 - May result in disciplinary action, up to and including termination of employment
-

APPENDIX E - POST-ACCIDENT TESTING DECISION FLOWCHART

(DOT / CDL-Covered Employees – Supervisor Use)

Authority: Omnibus Transportation Employee Testing Act of 1991

Regulator: U.S. Department of Transportation / Federal Motor Carrier Safety Administration (FMCSA)

Regulatory Basis: 49 CFR §382.303

This Appendix shall be read in conjunction with **Appendix A (Safety-Sensitive Functions)**, **Appendix B (Alcohol Prohibitions)**, **Appendix C (Reasonable Suspicion Checklist)**, and **Appendix D (Post-Accident Testing Requirements)**.

STEP-BY-STEP DECISION FLOW

STEP 1 — DID THE INCIDENT INVOLVE A Commercial Motor Vehicle?

(CDL-covered employee performing or having just performed a safety-sensitive function)

- ☐ **NO** → DOT post-accident testing **NOT required**
→ Consider **reasonable suspicion testing** if indicators exist
- ☐ **YES** → Proceed to Step 2

STEP 2 — WAS THERE A FATALITY?

(Any person, regardless of fault)

- ☐ **YES**
 - **ALCOHOL TEST REQUIRED**
 - **DRUG TEST REQUIRED**
 - **TEST REGARDLESS OF FAULT OR CITATION**
- ☐ **NO** → Proceed to Step 3

STEP 3 — DID ANY PERSON RECEIVE MEDICAL TREATMENT AWAY FROM THE SCENE?

(Ambulance, ER, urgent care, hospital)

- ☐ **NO** → Proceed to Step 4
 - ☐ **YES** → Proceed to Step 5
-

STEP 4 — WAS THERE DISABLING DAMAGE REQUIRING A TOW?

(Any vehicle — not just the Town vehicle)

- ☐ **NO**
 - DOT post-accident testing **NOT required**
 - Consider **reasonable suspicion testing**
 - ☐ **YES** → Proceed to Step 5
-

STEP 5 — WAS THE EMPLOYEE ISSUED A MOVING VIOLATION CITATION?

(Related to the accident)

- ☐ **YES**
 - **ALCOHOL TEST REQUIRED**
 - **DRUG TEST REQUIRED**
 - ☐ **NO**
 - DOT post-accident testing **NOT required**
 - Document “no citation” determination
 - Reasonable suspicion testing may still apply
-

TESTING TIME LIMITS (MANDATORY)

Alcohol Testing:

- Within **2 hours** (preferred)
- **No later than 8 hours**
- If delayed:
 - ☐ Document reason after 2 hours
 - ☐ Stop attempts after 8 hours and document

Drug Testing:

- Within **32 hours**
- If not completed:
 - ☐ Stop attempts after 32 hours and document

EMPLOYEE RESTRICTIONS (CRITICAL)

- ☐ Employee **MUST remain available** for testing
- ☐ Employee **MUST NOT consume alcohol** for 8 hours or until tested
- ☐ Employee **MUST NOT drive** after the accident

⚠ Failure to comply = Refusal to Test under federal law

MEDICAL TREATMENT EXCEPTION

- ☐ Employee may leave scene **only for necessary medical care**
- ☐ Supervisor notified as soon as practicable
- ☐ Testing completed when medically feasible

REQUIRED SUPERVISOR DOCUMENTATION

- ☐ Accident summary
- ☐ Citation determination
- ☐ Test / no-test decision
- ☐ Delay or non-testing explanation (if applicable)

(Retain per DOT and Town record-retention schedules)

QUICK REFERENCE TABLE

Situation	DOT Test Required
Fatality	YES – Always
Injury + citation	YES
Tow + citation	YES
No citation	NO (DOT)
Suspicious behavior	Reasonable suspicion rules apply

REMEMBER: TICKET, TOW OR INJURY = TEST

APPENDIX F - FEDERAL GRANT – DRUG-FREE WORKPLACE REQUIREMENTS

(Non-DOT Federal Compliance)

Authority

This Appendix is adopted pursuant to the **Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 8101–8106)** and implementing federal grant conditions, and shall apply to the Town of Berne whenever it receives or administers **federal grant funds**.

This Appendix is **independent of DOT drug and alcohol testing requirements** and does not authorize testing except where otherwise permitted by law, collective bargaining agreements, or the Town of Berne Employee Handbook.

F-1. Applicability

This Appendix applies to:

1. **All Town of Berne employees** whose wages, benefits, or job duties are **paid for in whole or in part with federal grant funds**; and
2. All Town departments administering or implementing federal grants, regardless of program type.

F-2. Drug-Free Workplace Policy Statement

As a condition of receiving federal grant funds, the Town of Berne maintains a **drug-free workplace** and strictly prohibits:

- The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance
- In the workplace or while performing Town duties funded by a federal grant

F-3. Employee Notification Requirement

Employees working under federal grants shall be notified that:

1. Compliance with this policy is a **condition of employment** under the federal grant; and
2. Violations may result in disciplinary action consistent with:
 - The Town of Berne Employee Handbook

- Applicable collective bargaining agreements
 - Due process requirements under New York law
-

F-4. Criminal Drug Conviction Reporting

Any employee working under a federal grant **must notify the Town Supervisor or designee in writing within five (5) calendar days** of being convicted of a criminal drug statute violation occurring in the workplace.

F-5. Town Reporting Obligations

Upon receiving notice of a covered conviction, the Town of Berne shall:

1. Notify the applicable federal granting agency **within ten (10) calendar days**; and
 2. Take appropriate personnel action, which may include:
 - Discipline consistent with law and CBAs; or
 - Requiring satisfactory participation in a drug abuse assistance or rehabilitation program
-

F-6. Discipline and Rehabilitation

Nothing in this Appendix requires automatic termination.

Disciplinary or corrective action shall be determined in accordance with:

- The Town of Berne Employee Handbook
 - Progressive discipline standards, where applicable
 - Collective bargaining agreements
 - Federal grant conditions
-

F-7. No Expansion of Testing Authority

This Appendix:

- **Does not create independent authority** for drug or alcohol testing;
- **Does not override** DOT testing requirements for CDL-covered employees (see Appendices A–E); and
- Shall not be interpreted to permit testing except where authorized by:

- Federal law
 - New York State law
 - Collective bargaining agreements
-

F-8. Coordination with DOT and Other Federal Requirements

Where an employee is subject to **both**:

- DOT drug and alcohol testing requirements **and**
- Federal grant drug-free workplace requirements

The Town shall comply with **both regimes**, with federal DOT regulations governing testing and the Drug-Free Workplace Act governing workplace conduct and reporting.

APPENDIX G - NEW YORK STATE CANNABIS LAW AND WORKPLACE APPLICATION

(Non-DOT Employees and General Workforce)

Authority

This Appendix is adopted pursuant to the **New York Marijuana Regulation and Taxation Act (MRTA)**, **New York Labor Law §201-d**, and applicable guidance issued by New York State.

This Appendix shall be read in conjunction with the Town of Berne Employee Handbook and the Town's Drug & Alcohol Testing Policy.

G-1. Purpose and Scope

New York State law legalizes certain adult use of cannabis but **does not require employers to permit impairment at work** or to compromise workplace safety.

This Appendix explains how New York cannabis law applies to Town of Berne employees and clarifies the distinction between:

- **Lawful off-duty cannabis use**, and
 - **Prohibited on-duty impairment or use**, particularly in safety-sensitive contexts.
-

G-2. Lawful Off-Duty Cannabis Use (Protected Conduct)

Under New York Labor Law §201-d, the Town **shall not discipline or discriminate against an employee solely for**:

1. **Lawful use of cannabis off duty**,
2. **Outside of work hours**,
3. **Off Town premises**, and
4. **Without use of Town equipment or vehicles**.

A positive cannabis test **alone** is **not sufficient** to establish a violation for **non-DOT employees**.

G-3. Prohibited Conduct (Still Enforceable)

Nothing in New York cannabis law requires the Town to permit:

1. **Use of cannabis during work hours;**
2. **Use of cannabis on Town property**, in Town vehicles, or while operating Town equipment;
3. **Working while impaired** by cannabis;
4. **Possession, distribution, or sale of cannabis** in the workplace; or
5. Conduct that **creates an unsafe condition** or interferes with job performance.

The Town may take disciplinary action where impairment or prohibited conduct is established in accordance with this Appendix and applicable law.

G-4. Workplace Impairment Standard

A. Observable Impairment Required

For **non-DOT employees**, the Town must identify **objectively observable symptoms** that:

- Indicate impairment; and
- **Materially interfere** with the employee's ability to perform job duties; or
- **Create a direct threat** to safety or property.

Examples may include (but are not limited to):

- Reduced coordination or motor skills
- Unsafe operation of equipment
- Inability to perform routine tasks
- Disorientation, confusion, or delayed responses
- Behavior that poses a safety risk

Supervisors must rely on **specific, articulable observations**, not assumptions or odor alone.

B. Documentation Required

Supervisors shall document observations contemporaneously and may rely on procedures similar to those set forth in **Appendix C (Reasonable Suspicion Checklist)**, as adapted for non-DOT employees.

G-5. Drug Testing and Cannabis

A. No Automatic Cannabis Testing Authority

For non-DOT employees:

- New York law **does not permit discipline based solely on a positive cannabis test**; and
 - This Policy **does not authorize routine cannabis testing** unless otherwise permitted by law or a collective bargaining agreement.
-

B. DOT and Federal Law Exception

This Appendix **does not apply** to:

- Employees subject to **DOT drug testing**, or
- Employees working under federal laws or grants that **prohibit cannabis use**.

For such employees, **federal law controls** (see Appendices A–F).

G-6. Safety-Sensitive and High-Risk Positions (Non-DOT)

For non-DOT positions involving:

- Heavy machinery
- Public safety responsibilities
- Emergency response
- Significant risk to persons or property

The Town may enforce **stricter impairment standards**, provided actions are based on observable impairment and comply with law and CBAs.

G-7. Interaction with Federal Law

Where an employee is subject to **both**:

- New York cannabis protections; and
- Federal law, federal grant conditions, or DOT regulations prohibiting cannabis use

Federal law shall govern, and New York protections shall yield to the extent of the conflict.

G-8. Collective Bargaining and Due Process

This Appendix shall be administered consistent with:

- Collective bargaining agreements
- Progressive discipline requirements
- Due process protections under New York law

Nothing herein diminishes employee rights to representation, grievance, or arbitration.

G-9. No Private Right of Action Created

This Appendix is intended solely to implement statutory compliance and does not create a private right of action beyond those provided by law.

APPENDIX H - SUPERVISOR CANNABIS IMPAIRMENT OBSERVATION GUIDE

(New York State–Compliant – Non-DOT Employees)

Legal Context

New York State law permits lawful off-duty cannabis use but **does not permit on-duty impairment or unsafe work conditions**. Supervisors may take action **only when objectively observable impairment exists**, consistent with the Marijuana Regulation and Taxation Act (MRTA), New York Labor Law §201-d, and guidance issued by the **New York State Office of Cannabis Management**.

This Appendix **does not authorize drug testing** and **does not apply to DOT-covered employees**, who are governed by federal law (see **Appendices A–E**).

H-1. When a Supervisor May Intervene

A supervisor may take action **only when**:

- Observable symptoms are present;
- Symptoms are contemporaneous (present at the time of observation); and
- Symptoms materially interfere with job performance **or** create a direct threat to safety or property.

⚠ Odor alone, lawful off-duty use, prior use, or a positive cannabis test alone is not sufficient.

H-2. Objectively Observable Indicators

(Document what you see — not what you assume)

A. Physical Indicators

- ☐ Poor coordination or balance
 - ☐ Delayed reaction time
 - ☐ Difficulty standing, walking, or handling tools
 - ☐ Red or glassy eyes **combined with** other indicators
 - ☐ Tremors or unsteady hands
-

B. Cognitive / Mental Indicators

- ☐ Confusion or disorientation
- ☐ Difficulty following simple instructions
- ☐ Impaired judgment or decision-making
- ☐ Memory lapses affecting assigned tasks
- ☐ Slow or inappropriate responses

C. Behavioral Indicators

- ☐ Erratic, impulsive, or unusually risky behavior
 - ☐ Inappropriate laughter or mood swings
 - ☐ Withdrawal, lethargy, or disengagement
 - ☐ Agitation, paranoia, or heightened anxiety
-

D. Performance & Safety Indicators

- ☐ Unsafe operation of equipment or vehicles
 - ☐ Repeated mistakes in routine tasks
 - ☐ Failure to follow safety procedures
 - ☐ Creation of unsafe conditions for others
-

H-3. What Is Not Sufficient by Itself

The following **cannot alone** support discipline or adverse action:

- Odor of cannabis
 - Lawful off-duty cannabis use
 - Prior cannabis use without current impairment
 - A positive cannabis test (non-DOT)
 - Rumors, speculation, or second-hand reports
-

H-4. Required Supervisor Response (Step-by-Step)

Step 1 — Observe and Pause

- Observe the employee directly
 - Do not confront immediately unless safety requires immediate action
-

Step 2 — Document Observations

Record **specific, factual observations**, not conclusions:

- ✓ “Employee dropped tools twice and failed to secure equipment after instruction.”
 - X “Employee appeared high.”
-

Step 3 — Address Safety First

If safety is implicated:

- ☐ Remove employee from hazardous duties
- ☐ Reassign to non-hazardous work **or**
- ☐ Place employee on paid administrative status, consistent with policy and CBA

Transportation home may be required if the employee should not drive.

Step 4 — Supervisor Conversation (If Appropriate)

Ask **job-focused** questions only:

- ✓ “Are you able to safely perform your duties right now?”
- ✓ “Is there a medical or other issue affecting your work today?”

X Do not ask about cannabis use, timing, or location of use.

Step 5 — Notify Administration

Notify:

- ☐ Department Head
- ☐ Town Supervisor or designee
- ☐ HR / Personnel Officer (if applicable)

Follow established disciplinary, due-process, and grievance procedures.

H-5. Documentation Checklist

Supervisor documentation should include:

- ☐ Date, time, and location
- ☐ Specific observed behaviors
- ☐ Impact on job performance or safety
- ☐ Action taken
- ☐ Names of witnesses (if any)

Documentation should be consistent in tone and format with **Appendix I (Reasonable Suspicion Checklist)** for non-DOT cannabis impairment).

H-6. Interaction With Other Laws

- **DOT-covered employees:** Federal law governs (Appendices A–E)
 - **Federal grant-funded employees:** See Appendix F
 - **Collective bargaining agreements:** Just-cause and grievance protections apply
 - **Medical disclosures:** Engage HR before taking further action
-

H-7. Supervisor Principles (Key Takeaways)

- ✓ Focus on **impairment**, not cannabis
- ✓ Use **objective, observable facts**
- ✓ Tie actions to **job performance or safety**
- ✓ Avoid assumptions or moral judgments
- ✓ When in doubt, **document and escalate**

APPENDIX I -NON-DOT CANNABIS REASONABLE SUSPICION OBSERVATION CHECKLIST

(New York State–Compliant)

Legal Standard

For **non-DOT employees**, New York law **does not permit discipline based solely on cannabis odor, lawful off-duty use, or a positive cannabis test.**

Any action must be supported by **objectively observable impairment** that **materially interferes with job performance or creates a safety risk**, consistent with MRTA, Labor Law §201-d, and guidance from the **New York State Office of Cannabis Management.**

This Appendix **does not authorize drug testing** and **does not apply to DOT-covered employees** (see Appendices A–E).

I-1. Employee Information

- Employee Name: _____
- Job Title / Department: _____
- Date: _____ Time: _____
- Location: _____
- Supervisor Name: _____

I-2. Observed Physical Indicators

(Check only what you directly observe)

- ☐ Poor coordination or balance
- ☐ Difficulty walking or standing
- ☐ Slowed movements or reactions
- ☐ Difficulty handling tools or equipment
- ☐ Tremors or unsteady hands
- ☐ Red or glassy eyes **with other indicators present**

I-3. Observed Cognitive / Mental Indicators

- ☐ Confusion or disorientation
 - ☐ Difficulty understanding instructions
 - ☐ Delayed responses to questions or directions
 - ☐ Impaired judgment affecting work decisions
 - ☐ Memory lapses affecting assigned duties
-

I-4. Observed Behavioral Indicators

- ☐ Erratic or impulsive behavior
 - ☐ Uncharacteristic mood swings
 - ☐ Inappropriate laughter or affect
 - ☐ Withdrawal, lethargy, or disengagement
 - ☐ Agitation, paranoia, or anxiety
-

I-5. Performance & Safety Impact

(This section is critical for legal defensibility)

- ☐ Unsafe operation of equipment or vehicles
- ☐ Failure to follow safety procedures
- ☐ Repeated errors in routine tasks
- ☐ Created or contributed to an unsafe condition
- ☐ Required intervention to prevent injury or damage

Describe the specific performance or safety impact observed:

I-6. What Was Not Relied Upon

(Checking these helps defend against improper discipline claims)

- ☐ Odor of cannabis alone
 - ☐ Lawful off-duty cannabis use
 - ☐ Prior cannabis use
 - ☐ Drug test results
 - ☐ Rumors or third-party reports
-

I-7. Supervisor Action Taken

- ☐ Employee removed from hazardous duties
 - ☐ Employee reassigned to non-hazardous work
 - ☐ Employee placed on paid administrative status (per policy/CBA)
 - ☐ Transportation arranged (employee did not drive)
 - ☐ Matter escalated to Department Head / HR
-

I-8. Supervisor Certification

I certify that the observations documented above are **objective, contemporaneous, and based solely on direct observation**, and that any action taken was due to **observed impairment affecting job performance or safety**, not lawful off-duty conduct.

Supervisor Signature: _____

Date / Time: _____

I-9. HR / Administrative Review (Optional)

- ☐ Review completed
- ☐ Additional action required
- ☐ No further action warranted

Reviewed by: _____

Date: _____

I-10. Use and Retention

- Use this checklist **before taking adverse action** for suspected cannabis impairment (non-DOT).
- Use in conjunction with **Appendix G (NYS Cannabis Law)** and **Appendix H (Supervisor Observation Guide)**.
- Retain in accordance with Town personnel record-retention schedules.

TOWN OF BERNE

SUPERVISOR REASONABLE SUSPICION TRAINING PROGRAM

(DOT / CDL-Covered Employees)

Authority

This training program is established pursuant to **49 CFR §382.603**, as administered by the **U.S. Department of Transportation** through the **Federal Motor Carrier Safety Administration (FMCSA)**.

This program satisfies the **mandatory federal training requirement** for supervisors who oversee **CDL-covered employees**.

1. PURPOSE

The purpose of this training is to ensure that supervisors:

- Can **recognize the physical, behavioral, speech, and performance indicators** of probable drug use and alcohol misuse;
 - Are legally qualified to make **reasonable suspicion determinations**; and
 - Apply DOT drug and alcohol testing requirements **lawfully, consistently, and defensibly**.
-

2. APPLICABILITY

This training is **mandatory** for:

- Any supervisor who **oversees CDL-covered employees**; and
- Any supervisor who may be required to **determine whether reasonable suspicion testing is warranted** under DOT regulations.

For the Town of Berne, this typically includes:

- Highway Superintendent

- Deputy Highway Superintendent
 - Working Foremen / Supervisors
 - Any supervisory employee who may observe CDL drivers during duty
-

3. TRAINING REQUIREMENTS (FEDERAL MINIMUM)

Pursuant to **49 CFR §382.603**, supervisors must receive:

- At least 60 minutes of training on alcohol misuse, and
- At least 60 minutes of training on controlled substance use

🕒 **Total minimum training time: 120 minutes**

This training **must occur before** a supervisor may make a DOT reasonable suspicion determination.

4. TRAINING CURRICULUM

MODULE 1 — DOT LEGAL FRAMEWORK (15 minutes)

- Overview of the Omnibus Transportation Employee Testing Act of 1991
 - Applicability of **49 CFR Parts 382 and 40**
 - Definition of **safety-sensitive functions** (Appendix A)
 - Supervisor authority and limitations
 - Consequences of non-compliance (audit findings, suppressed tests)
-

MODULE 2 — ALCOHOL MISUSE INDICATORS (60 minutes – REQUIRED)

Supervisors shall be trained to recognize **specific, contemporaneous indicators**, including:

A. Physical Indicators

- Odor of alcohol
- Bloodshot eyes
- Unsteady movement or loss of balance
- Slurred speech

B. Behavioral Indicators

- Aggression or inappropriate behavior
- Mood swings
- Poor judgment

C. Speech Indicators

- Slurred or incoherent speech
- Delayed responses

D. Performance Indicators

- Unsafe operation of vehicles or equipment
- Failure to follow procedures
- Decreased alertness

✦ Emphasis is placed on **observable facts**, not assumptions.

MODULE 3 — CONTROLLED SUBSTANCE USE INDICATORS (60 minutes – REQUIRED)

Supervisors shall be trained to recognize indicators of **illegal drug use**, including:

A. Physical Indicators

- Tremors or twitching
- Poor coordination
- Dilated or constricted pupils

B. Behavioral Indicators

- Erratic or paranoid behavior
- Extreme fatigue or hyperactivity
- Unusual risk-taking

C. Speech Indicators

- Incoherent or confused speech
- Inappropriate responses

D. Performance Indicators

- Unsafe driving
- Repeated mistakes
- Inability to follow instructions

△ This module applies **only to DOT-covered employees**.
New York cannabis protections **do not override DOT requirements**.

MODULE 4 — MAKING A REASONABLE SUSPICION DETERMINATION (30 minutes)

- Legal standard: **specific, contemporaneous, articulable observations**
 - Proper documentation using **Appendix C (Reasonable Suspicion Checklist)**
 - Removal from safety-sensitive duties
 - Transportation requirements (employee may not drive)
 - Chain-of-custody overview
-

MODULE 5 — COMMON ERRORS & RISK AVOIDANCE (15 minutes)

- Ordering tests without training
 - Relying on rumors or third-party reports
 - Failing to document observations
 - Confusing DOT and non-DOT standards
 - Improper questioning of employees
-

5. TRAINING METHOD

Training may be delivered by:

- A qualified third-party DOT training provider; **or**
- An internal trainer with documented DOT subject-matter expertise

Training may be conducted:

- In-person
 - Live virtual (interactive)
 - Video-based with verification of completion
-

6. DOCUMENTATION & RECORDKEEPING

The Town shall maintain the following records:

- Supervisor name
- Training date
- Duration of training
- Training content outline
- Trainer name and qualifications
- Supervisor acknowledgment of completion

Records shall be retained in accordance with **49 CFR §382.401** and Town retention schedules.

7. CERTIFICATION REQUIREMENT

A supervisor **may not make a reasonable suspicion determination** until:

- ✓ Training is completed
- ✓ Certification is documented
- ✓ Records are retained

Failure to meet this requirement may invalidate testing decisions.

8. REFRESHER TRAINING

DOT regulations do **not require refresher training**; however, the Town of Berne **strongly recommends refresher training every three (3) years**, or sooner if regulations change.

9. SEPARATION FROM NON-DOT STANDARDS

This training program:

- Applies **only to DOT / CDL-covered employees**
 - Does **not apply** to non-DOT cannabis impairment determinations
 - Must be applied independently of **Appendices G, H, and I**
-

10. PROGRAM ADMINISTRATION

The Town Supervisor, or designee, is responsible for:

- Ensuring required supervisors are trained
- Maintaining training records
- Ensuring compliance with federal law

Town of Berne, New York

Day-to-Day Administration & Human Resources Authority Policy (18-2026)

Adopted by the Town Board of the Town of Berne on 2/11/26: Resolution 28 of 2026

Section 1 – Purpose

This policy establishes the structure for day-to-day and human resources administration within the Town of Berne. It defines the respective authority of the Town Board, Town Supervisor, and department leadership to ensure lawful personnel management, operational efficiency, and compliance with New York State law.

Section 2 – Legal Framework

This policy is adopted pursuant to:

- New York Town Law
- New York Civil Service Law
- Public Employees' Fair Employment Act (Taylor Law)
- Albany County Civil Service Rules
- Applicable collective bargaining agreements

Nothing herein supersedes State or federal law, Civil Service rules, or collective bargaining agreements.

Section 3 – Role of the Town Board (Employer Authority)

The Town Board is the legal employer and retains exclusive authority over:

1. Establishing, abolishing, or modifying positions
2. Appointments and hiring decisions
3. Determining compensation and benefits
4. Adoption and amendment of personnel policies
5. Authorization of formal disciplinary action where required
6. Approval of collective bargaining agreements
7. Workforce restructuring and layoffs
8. Final employment determinations not governed by Civil Service or CBAs

No delegation shall be construed to transfer these powers unless expressly authorized by law and resolution.

Section 4 – Role of the Town Supervisor (Administrative Authority)

Consistent with Town Law §29 and Town Board delegation, the Town Supervisor serves as the Town's chief administrative officer and is responsible for **day-to-day personnel and operational administration**.

4.1 Operations & Facilities

The Supervisor oversees routine operations of Town and Special Improvement District facilities, including maintenance coordination, scheduling, safety compliance, and minor repairs within budget and procurement policy. The Supervisor may direct town employees and contractors assigned to facility operations, consistent with adopted policies, collective bargaining agreements and civil service requirements.

4.2 Employee Supervision

The Supervisor may:

- Direct daily work of Town employees (except where law provides independent authority to elected officials)
- Approve routine leave
- Monitor attendance and time reporting
- Implement Town Board-adopted policies
- Assign work and provide performance feedback

4.3 Recruitment Administration

The Supervisor may:

- Identify vacancies
- Coordinate with Civil Service
- Post positions
- Screen applicants
- Conduct preliminary interviews
- Verify references
- Recommend candidates to the Town Board

4.4 Informal Discipline

The Supervisor may issue verbal counseling, written warnings, and performance improvement plans. This does not include suspensions, terminations, or formal disciplinary charges unless authorized by resolution or collective bargaining agreement.

4.5 Personnel Administration

The Supervisor may administer benefits coordination, training compliance, safety programs, and personnel record management in coordination with the Town Clerk.

Section 5 – Limitations on Supervisor Authority

The Supervisor shall not have authority to:

- Hire, appoint, promote, or terminate employees
- Set wages or benefits
- Create or abolish positions
- Enter employment agreements
- Adopt or modify personnel policy
- Execute collective bargaining agreements
- Impose formal discipline governed by Civil Service Law or CBAs

All such actions require Town Board approval or legal process.

Section 6 – Department Heads and Elected Officials

Nothing herein limits the statutory authority of elected officials or department heads. Their supervisory authority remains subject to Town Board budgetary control, Civil Service Law, CBAs, and Town-wide policies.

Section 7 – Complaints and Grievances

Employee complaints shall be handled pursuant to:

1. Collective bargaining grievance procedures
2. Civil Service disciplinary procedures
3. Town anti-harassment and workplace conduct policies

The Supervisor may conduct preliminary administrative review but shall not render final determinations where legal procedures apply.

Section 8 – Personnel Records

Personnel records shall be maintained securely and confidentially consistent with Civil Service Law, FOIL exemptions, and privacy protections.

Section 9 – Non-Delegation of Employer Status

Nothing in this policy designates the Town Supervisor as Human Resources Director or transfers employer status from the Town Board. Authority delegated is administrative only.

Section 10 – Incorporation of Administrative Delegation

The Town Board's resolution delegating **day-to-day administrative and personnel oversight authority** to the Town Supervisor is incorporated into this policy by reference and shall govern operational implementation.

Section 11 – Amendments

This policy may be amended by Town Board resolution.

Appendix A

Town of Berne – Governance & Administrative Authority Structure

Function	Town Board	Supervisor	Dept. Heads
Create Positions	✓	✗	✗
Hire/Appointment	✓	✗ (recommends)	✗
Set Pay	✓	✗	✗
Daily Supervision	✗	✓	✓ (dept-specific)
Post Vacancies	By policy	✓	Assist
Interviews	May	✓	May assist
Formal Discipline	✓ / CBA	✗	✗
Informal Counseling	✗	✓	May report
Personnel Policy	✓	Implements	Follows
Labor Contracts	✓	May assist	✗

TOWN OF BERNE

RULES OF ORDER AND PROCEDURE

FOR TOWN BOARD MEETINGS

SECTION 1. AUTHORITY

These Rules of Order and Procedure are adopted pursuant to New York Town Law and the New York State Open Meetings Law and shall govern the conduct of all meetings of the Town Board of the Town of Berne.

Where not otherwise provided, **Robert's Rules of Order (Newly Revised)** shall serve as a procedural guide but shall not supersede state law or these Rules. These Rules adopted by Town Board on January 14, 2026, in accordance with Resolution 23 of 2026.

SECTION 2. MEETINGS

A. Regular Meetings

Regular meetings of the Town Board shall be held at the dates, times, and locations established by resolution of the Town Board.

B. Special Meetings

Special meetings may be called by the Town Supervisor or by a majority of the Town Board members, upon notice in compliance with the Open Meetings Law.

C. Workshops

Work sessions or workshops may be held for discussion purposes only. No formal action shall be taken unless the session is properly noticed as a meeting.

SECTION 3. PRESIDING OFFICER

The Town Supervisor shall preside at all meetings.
In the absence, inability, or recusal of the Supervisor, the Deputy Supervisor shall preside.

The Presiding Officer shall:

- Preserve order and decorum
 - Recognize speakers
 - Rule on procedural questions
 - Enforce these Rules fairly and consistently
-

SECTION 4. QUORUM

A majority of the total membership of the Town Board shall constitute a quorum for the transaction of business.

SECTION 5. AGENDA

A. Preparation

The agenda shall be prepared by the Town Supervisor in coordination with the Town Clerk.

B. Order of Business

The agenda shall generally follow this order:

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of Minutes
5. Public Comment
6. Supervisor's Report
7. Reports of Officers and Committees
8. Old Business
9. New Business / Resolutions
10. Audit and Approval of Claims
11. Executive Session (if applicable)
12. Adjournment

The order of business may be altered by majority consent of the Town Board.

SECTION 6. MOTIONS AND RESOLUTIONS

A. Motions

Motions shall be used for procedural or administrative actions and shall require a second.

B. Resolutions

Resolutions shall be required for all actions involving policy, expenditures, contracts, appointments, authorizations, or legal actions.

All resolutions shall:

- Be numbered sequentially by calendar year
- Be adopted by roll call vote unless otherwise permitted by law

SECTION 7. DISCUSSION AND TIME LIMITS

A. Board Discussion

Board members shall address all remarks to the Presiding Officer and confine discussion to the matter under consideration.

B. Time Limits

- Initial remarks: up to **five (5) minutes per Board member**
- Follow-up remarks: up to **three (3) minutes**, at the discretion of the Presiding Officer

SECTION 8. VOTING

A. Voting Rights

Each Town Board member, including the Supervisor, shall be entitled to one vote.

B. Roll Call Votes

Roll call votes shall be taken on all resolutions and any matter when requested by a Board member or required by law.

C. Abstentions and Recusals

Abstentions and recusals shall be recorded in the minutes. Members shall recuse themselves when required by law due to a conflict of interest.

SECTION 9. PUBLIC COMMENT

A. Public Comment Period

A public comment period shall be provided at regular meetings.

B. Rules

- Speakers shall state their name and municipality of residence
 - Comments shall be limited to Town business
 - Each speaker shall be limited to **three (3) minutes**
 - The Board shall not engage in debate with speakers
-

SECTION 10. REMOTE AND HYBRID MEETINGS

Remote or hybrid participation by Town Board members may be permitted only as authorized by New York State law and Town Board resolution.

When permitted:

- A physical meeting location open to the public shall be maintained
 - Remote members must be able to hear and be heard
 - All votes by remote members shall be taken by roll call
-

SECTION 11. EXECUTIVE SESSION

A. Purpose of Executive Session

Executive session is intended to allow the Town Board to discuss **sensitive matters where public discussion would cause harm to the Town, an individual, or the public interest**, as expressly permitted by the Open Meetings Law.

Executive session **is not** a separate meeting and may only occur **after** a properly convened open meeting.

B. Permissible Reasons for Executive Session

The Town Board may enter executive session **only** for one or more of the following reasons, as authorized by **Public Officers Law §105**:

1. **(1)(a) & (f) The medical, financial, credit, or employment history of a particular person**, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, or removal of a particular person or corporation **(1)(d) Matters which will imperil the public safety** if disclosed.
 2. **(1)(b) Information relating to current or future litigation**, including discussions with the Town Attorney regarding legal strategy.
 3. **(1)(c) Collective negotiations pursuant to Article 14 of the Civil Service Law**, including labor contract negotiations.
 4. **(1)(d) Matters related to the security** of public property where disclosure would endanger public safety
 5. **(1)(e) Matters which may disclose the identity of a law enforcement agent or informer**, or information relating to a criminal investigation.
 6. **(1)(g) The preparation, grading, or administration of examinations.**
 7. **(1)(h) The proposed acquisition, sale, or lease of real property**, or securities, when public discussion would substantially affect the value thereof.
-

C. Procedure to Enter Executive Session

To enter executive session:

1. A motion must be made in open session
 2. The motion must **identify the general subject matter** of the executive session
 3. The motion must be adopted by a **majority vote of the total membership** of the Town Board
-

D. Limitations

- No formal action or vote shall be taken in executive session
- Any action resulting from executive session discussion shall be taken **only after returning to open session**
- Executive session discussions shall remain confidential to the extent permitted by law

E. Minutes

Executive session is a portion of a duly convened open meeting. The Town Clerk shall maintain minutes of executive session **only as required by the New York State Open Meetings Law**. No verbatim transcript or summary of discussion shall be prepared unless expressly required by law.

F. Circumstances Requiring Executive Session Minutes

Pursuant to **Public Officers Law §106(2)**, minutes of an executive session **shall be taken only when the Town Board takes formal action by vote** during executive session.

When required, such minutes shall include only:

1. The **date** of the executive session
2. The **final determination or action taken**
3. The **vote of each Town Board member**, or a notation that the action was unanimous

No discussion, deliberation, opinions, or background information shall be recorded.

G. Circumstances When Executive Session Minutes Are Not Required

When **no formal action or vote** is taken during executive session:

- Executive session minutes **shall not be prepared**
- The Town Clerk shall not record discussion summaries or notes
- No audio or video recording shall be made

In such cases, the open-meeting minutes shall reflect only:

- The motion to enter executive session
- The general subject matter stated in the motion
- The time the Board entered and exited executive session

H. Return to Open Session

As a matter of policy, the Town Board of the Town of Berne **shall take all formal action in open session whenever practicable**, even when discussion occurred in executive session. Any action taken in open session shall be fully reflected in the public minutes.

I. Confidentiality and Disclosure

Executive session minutes, when required, shall be maintained as **confidential records** and shall not be disclosed unless and until the basis for confidentiality no longer exists, as determined by the Town Board in consultation with the Town Attorney or as otherwise required by law.

F. Record Retention

The Town Clerk shall:

- Maintain executive session records separately from open-meeting minutes
 - Clearly label such records as **“Executive Session – Confidential”**
 - Release executive session minutes only upon authorization of the Town Board or as required by law
-

G. Prohibited Practices

The following practices are expressly prohibited:

- Recording executive session discussion when no vote occurs
 - Preparing verbatim transcripts of executive session
 - Using executive session minutes as a substitute for open-meeting action
 - Entering executive session solely to avoid public disclosure
-

SECTION 12. DECORUM AND ORDER

A. General Standard of Decorum

Meetings of the Town Board shall be conducted in a manner that is **orderly, respectful, and conducive to the efficient transaction of public business**. All persons present at a meeting, including Town Board members, Town officers, employees, and members of the public, shall

observe proper decorum. Disorderly conduct shall not be permitted. The Presiding Officer may issue warnings, recess, or adjourn the meeting to restore order. Individuals who persistently disrupt a meeting may be removed.

B. Conduct of Town Board Members

Town Board members shall:

- Address all remarks through the Presiding Officer
- Refrain from personal attacks, insults, or disruptive behavior
- Confine discussion to the subject under consideration
- Respect rulings of the Presiding Officer on matters of procedure

The Presiding Officer may call a Board member to order for behavior inconsistent with these Rules.

C. Conduct of the Public

Members of the public attending Town Board meetings shall:

- Remain seated and quiet unless recognized to speak
- Address remarks to the Presiding Officer, not individual Board members
- Refrain from shouting, interrupting, or engaging in dialogue with Board members
- Refrain from applause, demonstrations, or other disruptive conduct

Public comment is a **privilege subject to reasonable rules**, not a debate with the Town Board.

D. Disruptive Conduct Defined

Disruptive conduct includes, but is not limited to:

- Speaking without recognition
 - Repeatedly interrupting speakers or Board members
 - Shouting, use of profanity, or threatening language
 - Refusal to yield the floor when directed
 - Behavior that interferes with the orderly conduct of the meeting
-

E. Authority of the Presiding Officer

The Presiding Officer is authorized to take reasonable steps to maintain order, including:

1. Issuing a verbal warning
2. Directing a speaker to conclude remarks
3. Declaring a recess
4. Directing the removal of an individual who persists in disruptive conduct
5. Adjourning the meeting if order cannot be restored

Removal shall be used **only when necessary** to restore order and shall not be based on the content of lawful speech.

F. Meetings and Recording

Audio and video recording of meetings by the public shall be permitted, provided such recording:

- Does not interfere with the conduct of the meeting
- Does not obstruct aisles or exits
- Is conducted from a fixed location

The Presiding Officer may impose reasonable restrictions to ensure safety and order.

G. Enforcement Consistent with Law

All decorum rules shall be enforced in a **content-neutral manner**, consistent with the First Amendment and the New York State Open Meetings Law. No person shall be prohibited from speaking based solely on viewpoint or criticism of Town actions.

SECTION 13. MINUTES

The Town Clerk shall prepare minutes of all meetings, reflecting motions, resolutions, and votes. Roll call votes shall be recorded individually. Executive session minutes shall be kept only where required by law.

SECTION 14. AMENDMENT OR SUSPENSION

These Rules may be amended by resolution of the Town Board.
They may be temporarily suspended by unanimous consent, provided such suspension does not conflict with law.

SECTION 15. EFFECTIVE DATE

These Rules of Order and Procedure shall take effect immediately upon adoption by resolution of the Town Board of the Town of Berne.
