

FORWARD

This Handbook is intended to provide you with a general understanding of some of the Town of Berne's personnel and operational policies. The information in this Handbook should be helpful in familiarizing you with the policies of the Town of Berne and should act as a starting point and guideline for your relationship with the town.

From time to time, circumstances will undoubtedly require that the policies, practices and benefits described in the Handbook be changed. As a good practice the Town should review this document yearly and this document and any changes be approved by the Town Board at the first meeting of the calendar year.

Throughout this Handbook, we may use the words "he", "him" and "his" when the meaning includes "she", "her" and "hers". This wording is used solely for ease of reading and should not be interpreted as any form of bias.

SUCCESSFUL EMPLOYMENT RELATIONSHIP

The primary purpose of our organization is to provide for the health, safety and welfare of our residents. The general public judges the Town operations, not only through the official actions of its Town Council, but also through the personal contacts that each of us has with the community with our jobs, correspondence, telephone communications and person-to-person meetings and our ability and preparedness to respond to any emergency or disaster, a tall order indeed for our organization. As you read through this Handbook you will find many references to resources that are available for help but, perhaps, none more important than the team that you are a member of.

Personality traits and attributes describe the kind of person who is best suited for successfully fitting into the working environment, the Town culture and values, and with other team members and management. These qualities include passion, dedication, teamwork, interest in learning new things, attention to detail and creativity.

In order to ensure that our team is performing at its best, the performance of each Town employee is reviewed on an ongoing basis, and more formally on an annual basis as outlined in another part of this document. Generally, the supervisor that is directly responsible for the employee reviews the employee and this performance review is then discussed with the Town Board and the Town Supervisor.

Performance reviews are compared to a set of seven criteria that the organization has found to contribute to efficient and productive members of our team.

These seven criteria or "elements" are as follows:

1. **Honesty.** It is obvious that employees should not steal from the Town, but honesty in communication is equally important. When information is conveyed it must be the whole truth. This greatly reduces the guessing and game playing that dominates and hurts many organizations. It allows a tremendous level of faith and confidence in what our employees say that everything is above board and can be taken at face value.

2. **Integrity**. Each employee must be someone others respect. They do not necessarily have to be liked by everyone personally, but respect is vital in order to have confidence in all of the team members. An employee who is not respected demoralizes the whole team.
3. **Loyalty**. We are all part of the Town of Berne team. The Loyalty Research Center, a consulting firm, defines loyal employees as “being committed to the success of the organization. They believe that working for this organization is their best option”. We serve the people of the town who depend on us every day to create and maintain an environment where they and their families want to be. Our focus is always on them.
4. **Reliability**. Confidence in the reliability of each member of the team is vital. We need to have complete confidence in each other that our tasks are completed on time and to the best of our ability. Should, for any reason, a task not be completed we expect the employee responsible for its completion to contact their supervisor as soon as it is obvious that task will not be completed on time, to get help as needed so that the Town may continue to fulfill its obligations to our residents. As a team we are all here to help each other to succeed.
5. **Positive And Realistic Thinkers**. Nothing slows down and demoralizes the functioning of an organization as much as a negative thinker. It requires great negotiation, time and effort to attempt to persuade a negative thinker. An employee who is not a positive thinker demoralizes the whole team. A positive thinker approaches tasks from the viewpoint of “how can it be done” instead of “why it cannot be done.”

Our team and the entire town, who we serve, rely on positive thinking to provide them with the very best solutions and allows us to examine every option that can be practically pursued. As positive thinkers we pursue difficult tasks with the same energy as simple ones and rely on the team to develop approaches that exceed what any one individual could provide.

6. **Self-starter**. Each employee must be able to see what needs to be done within his or her area of responsibility and then get on with getting it done. People who require excessive direction, instruction or guidance from their supervisory personnel create inefficiency, not only for themselves, but also for the people around them.
7. **Self-confidence and Self-esteem**. The most common cause of failure is an employee’s unwillingness or inability to recognize or admit that the task assigned is not one that he or she can accomplish. In a team environment there are resources to lend a hand to help the employee learn, grow and accomplish his or her tasks. Failure to ask for help may put an entire project at risk. We expect that you are confident enough, both in yourself and in your relationship with the Town, to get the guidance and help you need to be successful.

During the review process the first question is always, “How are we doing on the key elements?” If the answer is positive, the individual’s strengths, weaknesses, productivity,

growth within the Town, advancement prospects, and salary adjustments etc. are discussed. If the answer to the question is negative, then the discussion focuses on whether there has been a previous history of problems, including the employee's attitude, work performance, if it is possible for the employee to overcome these problems in the immediate future.

We have found that people who possess and demonstrate these elements become efficient and productive members of the team. It is our goal and objective to provide our residents the kind of innovative solutions that can only be found and applied by highly motivated, competent and confident members of the team. "People helping people" is as important inside our organization as it is for our residents.

OPEN DOOR POLICY

We take pride in our commitment to honest and open communications in our organization. If you are dissatisfied with your job, your treatment by your supervisor, or Town policies affecting your job performance, please feel free to discuss the problem with either your supervisor or department manager. The Town expects its employees and their supervisors to make every reasonable effort to resolve any legitimate issues in question. Should your supervisor's or department manager's efforts be unsuccessful, or if you feel that your supervisor is part of the problem, please take the matter to the Human Resources manager or the Town Supervisors office. The Town is committed to an Open Door Policy. It is an important element in providing a fair, equitable and rewarding environments for all of our employees and insures the efficiency and productivity of our team.

100 INTRODUCTION

101 *Welcome Message*

We would like to welcome you and congratulate you on your employment position with the Town of Berne. Whether you are an employee, appointed official, an elected official, you have just joined our staff or have been with the Town of Berne for a while, we are confident that you will find our Town a dynamic and rewarding place in which to work, and we look forward to a productive and successful association. We consider the employees of our Town to be one of our most valuable resources. As a part of our team, you take on an extremely important role, that of serving the members of our community. Together, our mission is to provide cost-effective services that conform to the highest standards of quality. We sincerely hope that your position with us is both rewarding and enjoyable.

The purpose of this Employee Handbook is to set forth the Town's policies and procedures, and is intended to familiarize you with your employment, employee benefits, and the Civil Service System, help ensure government compliance, foster positive employee relationships, and contribute to the overall success of the Town in delivering services to the public effectively and efficiently. While this Handbook is not a contract of employment, express or implied, and should not be construed as such, it does serve as an agreement as related to the policies and procedures contained in this document.

For elected or appointed officials, this Handbook is intended to serve as a guideline for your relationship with the Town of Berne, with the exception that all provisions of the Town's Code of Ethics in Section 307 shall apply. We encourage you to approach any member of our management team with your questions or concerns.

Our success as a Town is based on the contributions of our employees. As a new member of the team, we will be depending on you to help make a positive difference. We are pleased you have chosen to join us and extend to you a warm WELCOME!

102 *A Message to Employees Represented by a Labor Union*

This Employee Handbook has been developed by the Town of Berne to assist you in getting acquainted with your employment with the Town. A cooperative labor-management ~~relationship~~ not only lends to a positive work environment but also helps ensure fair treatment in the workplace.

It is important that all employees understand the personnel policies and procedures and work rules outlined in this Employee Handbook. For union members, the collective bargaining agreement governs the terms and conditions of your employment with the Town of Berne. You are encouraged to obtain a copy of your collective bargaining agreement from your union representative. Anywhere that the current collective bargaining agreement and this Handbook conflict, the current collective bargaining agreement will

take precedence. However, where the Handbook covers an issue that is not the subject of the collective bargaining agreement, this Handbook will apply. Every effort has been made to identify and acknowledge these situations. If you have any questions, you should contact your Department Head or Union representative.

We hope that your career with the Town of Berne will be an enjoyable experience.

103 Definitions

All definitions herein are used for the sole purpose of this document

Town of Berne – For purposes of this Employee Handbook, the Town of Berne may be referred to as the “Town”.

Town Board – For purposes of this Employee Handbook, “Town Board” will mean the Town Board of the Town of Berne.

Elected Official – For the purposes of this Employee Handbook, “Elected Official” will mean and refer to any of the following elected officials of the Town of Berne:

- Town Supervisor
- Town Board Members (4)
- Town Justices (2)
- Town Clerk
- Superintendent of Highways
- Tax Collector
- Assessors (3)

Appointed Official – For the purposes of this Employee Handbook, “Appointed Official” will mean and refer to any of the following individuals appointed by the Town of Berne Town Board:

- Planning Board members or alternates.
- Zoning Board of Appeals members or alternates.
- Board of Assessment members.
- Parks and Recreation Board members; and
- Members of all advisory or ad hoc boards or committees.

“Appointed Official” will also mean and refer to the following individuals appointed by the Town of Berne Town Clerk:

- Deputy Town Clerk(s).
- Human Resource Coordinator
- Records Management

“Appointed Official” will also mean and refer to the following individuals appointed by the Town of Berne Highway Superintendent:

- Deputy Highway Supervisor.

Town Supervisor – For purposes of this Employee Handbook, “Town Supervisor” will mean the Town Supervisor of the Town of Berne as well as an individual acting with the Town Supervisor’s properly designated authority.

Department Head – For purposes of this Employee Handbook, “Department Head” will mean the person in charge of any department, agency, bureau, unit, or subdivision of the Town of Berne. This definition will be applicable in the event such person is serving in an acting, temporary, or provisional status in the position of Department Head. This term shall also include the Town Supervisor, where an individual otherwise designated as Department Head or any other individual must report directly to the Town Supervisor.

Supervisor – For purposes of this Employee Handbook, “Supervisor” will mean the individual so designated by the Department Head to direct and inspect the performance of employees.

Employee – For the purposes of this Employee Handbook, “employee” will mean a person employed by the Town, including, but not limited to, hourly employee, salaried employee, managerial employee, confidential employee, supervisory employee, provisional employee, probationary employee, temporary employee, seasonal employee, trainee, or student intern. This definition does not apply to an independent contractor, an elected official or an appointed official.

Civil Service Law – For purposes of this Employee Handbook, “Civil Service Law” shall mean the New York State Civil Service Law and shall include the *Rules for the Classified Civil Service of Albany County, NY*.

Contractor – For purposes of this Employee Handbook, “Contractor” or “Independent Contractor” means any sole proprietor, partnership, firm, corporation, limited liability company, association, or any other legal entity permitted by law to do business within the state, who engages in a service or something else and is defined as a “contractor” or “independent contractor” by *New York State Compensation Law* for the purposes of establishing that an employer/employee relationship does not exist.

At Will Employment – While the Town of Berne certainly hopes that every employee will find the employment relationship satisfying, at the same time, we recognize that relationships are not always mutually satisfactory. For employees not covered by a Labor Contract or, who are not covered by NY Civil Service Classification, and in order to protect both parties’ rights, it should be remembered that your employment relationship is on an “at-will” basis. Throughout the course of your employment, you are free to leave your employment at any time, for any reason. We reserve a similar right to end the employment relationship, or change an employee’s position, title, job responsibilities or compensation, at any time, with or without advance notice, for any reason or for no reason, and with or without cause. This is called "employment at will" and no one other than the Town Board of the Town of Berne, by resolution, has the authority to alter this arrangement, to enter into an agreement for employment for a specified period of time, or to make any agreement concerning the terms of your employment that is contrary to this policy. Furthermore, such an agreement must be in writing and must be signed by both you and the Town Supervisor who shall represent the Town of Berne.

104 **Employee Classifications**

For purposes of this Employee Handbook, the following terms shall be defined as indicated. The definition provided for each of these terms applies only within the context of this Employee Handbook. The meaning and use of these terms or similar terms may be different in the context of Civil Service Rules or a Collective Bargaining Agreement.

Full-Time Employees – The term “full-time employee” will mean an employee who is regularly scheduled to work a minimum of thirty-five hours per week.

Part-Time Employees – The term “part-time employee” will mean an employee who is scheduled on a regular and on-going basis to work less than thirty hours per week.

Temporary Employees – The term “temporary employee” will mean an employee who is employed on an interim or sporadic basis, or who is employed to work on a special, emergency, or on-call basis for a specified period, consistent with the Civil Service Law or the Fair Labor Standards Act (FLSA) as applicable.

Seasonal Employees – The term “seasonal employee” will mean an employee who is employed to work for a given season or portion thereof.

FLSA Non-Exempt Employees – The term “FLSA non-exempt employee” will mean a covered employee who is subject to the minimum wage and overtime provisions of the Fair Labor Standards Act.

FLSA Exempt Employees – The term “FLSA exempt employee” will mean a covered employee who qualifies for an exemption from the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA), or an employee who is not covered under the FLSA.

Other Classifications – Because of the type of business the Town conducts, other classifications may occur. These employees are expected to read and comply with this Handbook and become familiar with all of its provisions.

105 ***The Purpose of this Employee Handbook***

Statement of Purpose – The purpose of this Employee Handbook is to communicate the Town’s personnel policies, benefits, and practices to all employees and Elected Officials. It is extremely important that each employee understand the policies that relate to rules, regulations, procedures, practices, work standards, employment classifications, compensation, and benefits. This Employee Handbook is not a contract of employment, express or implied, and should not be construed as such. That is, employment can be terminated at any time at the will of either the employer or the employee, subject only to such procedural requirements as may be specified pursuant to New York State Civil Service Law, Town Law, collective bargaining agreement, or any other applicable law, rule, or regulation. The provisions and policies contained in this Employee Handbook are intended to supersede any and all prior manuals, guidelines or related policies issued by the Town of Berne.

If you are an employee who has entered into a written employment agreement signed by you and the Town of Berne, that agreement controls or takes precedence regarding the terms and benefits of your employment. The procedures and policies discussed in this Handbook are also applicable to you to the extent they are not inconsistent with your written employment agreement.

Unless otherwise required by law, the provisions of this Employee Handbook are for Town use only and do not apply in any criminal or civil proceeding. The Employee Handbook provisions shall not be construed as a creation of higher legal standard of safety or care. Notwithstanding the above, a violation of a Handbook provision may form the basis for an administrative action by the Town and any subsequent judicial or administrative proceeding.

Collective Bargaining Agreements – In the event an expressed and explicit provision set forth in a collective bargaining agreement between the Town of Berne and an employee organization as defined by the Public Employees’ Fair Employment Act (Taylor Law) should conflict with an employee benefit, personnel policy, personnel procedure, or other provision set forth in this Employee Handbook, the expressed and explicit provision of the collective bargaining agreement will take precedence. Otherwise, unless expressly excluded herein, this Employee Handbook will be applicable to all employees.

Questions – As you can imagine, it is not possible to anticipate every situation, which may arise during your job, or for this document to provide answers to every possible question you may have. Any questions regarding any topic covered in this Employee Handbook should be directed to your appropriate Department Head, the Town Human Resource Manager or the Town Supervisors office.

106 Changes or Modifications

From time to time, circumstances will undoubtedly require that the policies, practices and benefits described in this Handbook be changed.

Rights of the Town Board – The Town Board reserves the rights to interpret, change, modify, or eliminate any provision contained in this Employee Handbook as is deemed necessary and appropriate. When provisions are added or removed, or existing policies or procedures are changed The Town will attempt to notify you of such changes by distributing new provisions or policies to you to be incorporated into the Handbook. When new policies are added, or existing policies or procedures are changed, the most recent policies shall prevail and will govern any new actions taken.

Governmental Actions – This Employee Handbook is subject to alteration by the resolution of the Town Board, changes in and to Town and/or departmental rules, or changes in federal, state or local statutes, rules, or regulations. (This is not meant to be a comprehensive list).

Statutes, Laws and Ordinances – In the event a federal or state statute or a Town Law or ordinance should conflict with any provision contained in this Employee Handbook, then such statute, law or ordinance shall prevail.

200 THE CIVIL SERVICE SYSTEM

The following is intended as a guide for informational purposes. If you are subject to the Civil Service System in the State of New York, the Civil Service Law and the Rules for the Classified Civil Service of Albany County shall govern regarding the jurisdictional classification of positions and the appointment and promotion of personnel.

201 *The Unclassified and Classified Services*

Unclassified Service – In accordance with Civil Service Law and for purposes of this Employee Handbook, the term “Unclassified Service” will include all individuals who are Elected Officials, members of boards or commissions or Fair Labor Standards Act (FLSA) Exempt or Non-Exempt employees.

Classified Service – In accordance with Civil Service Law and for purposes of this Employee Handbook, the term “Classified Service” as defined by the Civil Service Law and the Rules for the Classified Civil Service of Albany County includes Town employees who are subject to the Rules for the Classified Civil Service of Albany County. The Classified Service is divided into four jurisdictional classes:

- **Exempt** – those positions, other than unskilled labor positions, for which competitive or non-competitive examinations or other qualification requirements are not practicable (Civil Service Law, Section 41);
- **Competitive** – those positions for which it is practicable to determine merit and fitness by competitive examination;
- **Non-Competitive** – those positions not in the exempt class or the labor class for which it is not practicable to determine merit and fitness by competitive examination, but rather by a review of training and experience; and,
- **Labor** – unskilled labor positions, except those positions that can be examined for competitively.

202 *Civil Service Appointments*

Competitive Class – In accordance with Civil Service Law, the following types of appointments may be made to positions in the Competitive Class:

- **Permanent** – an appointment to a vacant position in the Competitive Class from an eligible list established as a result of examination, following successful completion of a probationary term;
- **Provisional** – an appointment to a vacant position in the Competitive Class when there is not

an appropriate eligible list, established as a result of examination. A provisional appointee must take an examination whenever it is scheduled. Thereafter, a permanent appointment will be made on the basis of the eligible list resulting from the examination;

- **Temporary** – an appointment to a position in the Competitive Class for reasons including, but not limited to: emergency work projects; planned termination of the position after a limited time; to replace an employee who is on a leave of absence; to fill a position funded through a temporary grant; or to fill a position vacated by the promotion of another employee until the employee who has been promoted receives permanent status.

203 Examinations and Promotions

Examinations – In accordance with Civil Service Law, in the event there is a vacancy in a new or existing position in the Competitive Class which the Town intends to maintain, the Town will fill the vacancy by selection from the eligible list certified by the Albany County Department of Civil Service of persons who have taken the appropriate Civil Service examination. The Albany County Department of Civil Service will test and rank each candidate according to the individual’s performance on the examination. In accordance with Civil Service Law Section 61, the Town will select one of the top three eligible candidates on the list willing to fill the position.

Promotions – The Town will offer opportunities for advancement for those employees who qualify. In the event the position is in the Competitive Class, a qualified employee must normally take a promotional examination and the above “one of three” rule will apply. An employee who wants to be promoted should become knowledgeable about the employee’s present position and be aware of higher-level positions for which the employee may be qualified.

204 Veterans Credits in Civil Service

Summary – An employee who is a veteran as defined by the Civil Service Law, specifically, the employee must have been honorably discharged or released under honorable circumstances from the armed forces of the United States having served therein as such member in time of war as defined in Section 85 of the New York State Civil Service Law, may be eligible to apply for veteran’s credits on a Civil Service examination. An employee who is a veteran should contact the Albany County Department of Civil Service for details concerning these credits.

300 EMPLOYMENT MATTERS

301 Oath of Office

Requirement – Each Public Officer as defined in the Public Officers Law must take the Oath of Office in accordance with Town Law Section 25 and Public Officers Law Section 10, which must be administered prior to commencing the duties of the office. Each official who is re-elected or re-appointed to a subsequent term must take the Oath of Office for each term.

Upon original appointment or upon a new appointment following an interruption of continuous service, each employee (other than an employee in the labor class) must take an oath or alternate affirmation as set forth in Civil Service Law Section 62.

Filing of Oath – The Oath of Office is filed in the Town Clerk’s Office within thirty calendar days of the Public Officer’s commencement of the term of office, or upon an employee’s appointment.

302 Procedure for Filling Vacancies

Statement of Compliance – The Town of Berne is an Equal Opportunity Employer. The Town complies with all applicable federal, state and local laws, rules, and regulations throughout the employee selection process, including, but not limited to, Public Officers Law, Town Law, Civil Service Law, Title VII, Human Rights Law, the Age Discrimination in Employment Act, and the Americans with Disabilities Act.

Notification of Vacancies – In the event there is a vacancy in a new or existing position that the Town intends to maintain, the vacancy may be advertised and/or posted and qualified individuals interviewed. The Town reserves the right to fill a position either internally, or with an external candidate.

Employment Applications – The Town relies upon the accuracy of information contained in the employment application, as well as the accuracy of other data presented throughout the hiring process. Any misrepresentations, falsifications, or material omissions in any of this information or data may result in the Town’s exclusion of the individual from further consideration for employment or disqualification if the conduct is discovered after employment commences.

Employment Reference and Background Checks – To ensure that individuals who join the Town are well qualified and have a strong potential to be productive and successful, it is the policy of the Town to check the employment references of final applicants. In addition, final applicants will be required to complete a hold harmless statement and release in order for the Town to conduct appropriate background checks.

Residency Preference – In the event there is a vacancy in a new or existing position, which the Town intends to maintain, the Town will give preference to qualified applicants who are residents of the Town.

Veterans Credit – A qualified applicant, who is a veteran as defined by the Civil Service Law, specifically, the employee must have been honorably discharged or released under honorable circumstances from the armed forces of the United States having served therein as such member in time of war as defined in Section 85 of the New York State Civil Service Law may be eligible to apply for veteran's preference in the selection process.

303 Probationary Period

Except as otherwise provided in a collective bargaining agreement, the Rules for the Classified Civil Service of Albany County provide for the following, which is applicable to employees appointed, promoted or transferred pursuant to the Civil Service laws. Additional provisions may also apply in accordance with those rules. Unless otherwise stated and for the purposes of consistency, these rules shall also apply to Fair Labor Standards Act (FLSA) Exempt or Non-Exempt employees.

New Employee Orientation

The purpose of the new employee orientation is to welcome new employees and to familiarize them with the Town and their job. The orientation process generally consists of, but is not limited to, a tour of the employee's assigned worksite, distribution and review of this employee handbook, and enrollment in benefit plans, if applicable. In addition, the employee's Department Head is responsible for introducing the employee to co-workers, scheduling on-the-job training, and reviewing the job description and performance requirements of the position.

Purpose of Probationary Period – The purpose of the probationary period is for an employee to become familiar with the specific duties and responsibilities of the employee's new position. The probationary period also provides the Department Head with an opportunity to evaluate the employee's job performance and potential for development in the position.

Length of Probationary Period – Except as otherwise provided in the Rules for the Classified Civil Service of Albany County, every permanent appointment from an open-competitive list and every permanent appointment to a position in the non-competitive, exempt or labor class or an appointment of a Fair Labor Standards Act (FLSA) Exempt or Non-Exempt employee shall be for a probationary term of not less than eight (8) weeks nor more than fifty-two (52) weeks. The length of the probationary period may be extended in accordance with the Rules for the Classified Civil Service of Albany County.

Successful Completion of Probationary Period – An employee's appointment will become permanent upon written notice that the probationary period has been successfully completed following the minimum period of service required. Or the employee's appointment will become permanent upon the retention of the employee after completion of

the maximum period of service required. **Except as otherwise provided by law or a collective bargaining agreement, completion of the probationary period does not necessarily confer rights or privileges in the position.**

Employment Status During Probationary Period – During the probationary period (at any time after the completion of the minimum probationary period and before completion of the maximum probationary period), an employee will be subject to demotion, suspension, or discharge at the Town's sole discretion. If the performance or conduct of an employee serving a probationary period who has been promoted or transferred from a permanent appointment (as defined by civil service regulations) is not satisfactory, the employee shall be returned to the employee's former permanent position prior to the end of the probationary period.

304 Performance Appraisal

Statement of Purpose - The purpose of the performance appraisal is to evaluate an employee's performance and potential. The performance appraisal will assess the employee's success in meeting performance standards for the employee's position and also the employee's contribution to achieving specified objectives. The appraisal may take into consideration the employee's work quality, vocational skills, technical skills, communication skills, supervisory skills, conduct, attendance, initiative, teamwork, and such other criteria that properly reflect the employee's performance. An employee's performance appraisal may be considered in assignments, promotion, identifying training needs, determining a pay increase, disciplinary action, and other employment decisions. Performance appraisals also provide an opportunity to discuss job duties, identify strengths and areas needing improvement, and set goals for the next review period.

Frequency - A formal performance appraisal will be conducted annually for all employees who are not members in a collective bargaining unit. Informal evaluations may occur throughout the year. When deemed appropriate, formal performance appraisals may be conducted more or less frequently than annually.

Leaves of Absence - The annual performance appraisal is based on twelve months of active service. If an employee's service is interrupted by a leave of absence or temporary layoff in excess of sixty calendar days, the performance appraisal may be delayed by the length of the leave of absence or by temporary layoff.

Evaluation Procedure – The employee's immediate supervisor will complete the Performance Appraisal Form prior to meeting with the employee. Thereafter, the supervisor will meet with the employees to discuss the performance appraisal report.

Deficiencies - Should deficiencies be recorded in the performance of the employee, the employee will receive specific, reasonable, written recommendations for improvement.

Employee Reply - An employee's written response to the performance appraisal, if any, will be attached to the performance appraisal report.

305 **Corrective Action and Discipline**

Policy Statement – It is the policy of the Town of Berne that certain rules and regulations regarding employee behavior are necessary for the benefit and safety of all employees, the efficient operation of the Town, and the delivery of services to residents of the Town. Any conduct that interferes with operations or that discredits the Town will not be tolerated. Each employee must conduct oneself in a positive manner so as to promote the best interests of the Town. Corrective action becomes necessary when an employee has demonstrated performance deficiencies, or has violated a policy, rule, regulation, or procedure. Corrective action may include counseling or initiating formal disciplinary action against an employee.

Communication – Open and candid communications with all employees is an important aspect of the Town of Berne’s on-going employee relations. When a rule, policy, or procedure is violated, the employee's Department Head, or other designated supervisor, will review the specific nature of the violation with the employee. Your input is extremely important to ensure that all of the facts have been considered.

Counseling – Counseling an employee, as opposed to initiating formal disciplinary action, may be an appropriate first step in addressing performance deficiencies or misconduct. The purpose of counseling is to inform the employee of such deficiencies or misconduct, discourage its recurrence, and inform the employee of the consequences if the behavior is repeated. When performance deficiencies are the issue, the performance standards of the job should be reviewed, along with specific examples of how the employee is not meeting those standards. Where appropriate, goals for improvement may be established, along with a time frame for achieving them. Counseling will be documented in writing and the employee will be required to acknowledge receipt by signing the memorandum. Any employee who fails to follow a supervisor’s directive to sign the counseling memorandum acknowledging receipt will be subject to disciplinary action.

Discipline – The purpose of disciplinary action is to impose penalties for performance deficiencies or misconduct. In **normal circumstances**, the Town endorses a policy of progressive discipline which includes, but may not be limited to, documented verbal reprimand, letters of reprimand, suspension without pay, or termination of employment, depending on the circumstances. The Town retains the right to discipline employees without engaging in progressive discipline or prior counseling if the situation so warrants and retains the right to discipline employees in any manner it sees fit.

Investigations – Where appropriate, an investigation will be conducted by the proper supervisor or other designated individual(s) in order to gather all pertinent information and to ensure that all the facts are considered. The investigation may include, among other things, interviews with the employee and any witnesses or other involved parties, and review of documents and materials. Employees who are participants in an investigation are not allowed to disclose the content or particulars of the investigation unless otherwise authorized. All employees who are called upon to participate in an investigation are required to fully cooperate in the process and respond truthfully to all questions posed. Failure to do so will subject the employee to appropriate corrective action. The Town reserves the right to suspend an employee while an investigation is conducted.

During the investigation process, a union employee who appears to be a potential subject of disciplinary action may undergo questioning. Such employee will have the right to representation by the employee's certified or recognized employee organization under Civil Service Law Article 14 and will be given advanced notice of such right. In the event the employee requests representation, the employee will be allowed a reasonable period of time to obtain such representation. In the event the employee is unable to obtain such representation within a reasonable period of time, the employer will have the right to then question the employee.

Procedures – Employees covered by Civil Service Law Section 75 shall be disciplined in accordance with the procedures contained therein. (Refer to Section 307 of this Employee Handbook). An employee who is a member of a collective bargaining unit should refer to the collective bargaining agreement on the subject of the disciplinary procedure, wherein the negotiated procedure is the only method of resolving challenges to disciplinary action and wholly replaces the provisions of Civil Service Law Sections 75 and 76.

Prohibited Conduct – Any employee who, after investigation, is found to have committed any of the actions listed below will be subject to corrective action, up to and including termination of employment. This list is illustrative only and does not limit the Town's right to impose discipline in other appropriate cases.

- Willful violation of Town's rules, policies, and procedures.
- Harassing (including sexual harassment), intimidating, coercing, threatening, assaulting, or creating a hostile environment against another employee, Elected Official, resident of the Town, supplier, visitor, or any other person, whether on or off Town premises.
- Engaging in any action that is in violation of the Town's Workplace Violence Prevention Policy.
- Possession of any weapon or dangerous instrument (including knives with over a three inch blade, firearms, and explosives) on Town property or in Town vehicles, except for those employees who are required as a condition of employment to bear a weapon.
- Possession, use, distribution/sale, or being under the influence of alcohol or controlled substances during hours of work or while on Town property or in Town vehicles.
- Willful or deliberate abuse, destruction, defacement, or misuse of Town property or the property of another employee, Elected Official, resident of the Town, supplier, visitor, or any other person.
- Theft or unauthorized possession, use, or removal of Town property or the property of another employee, Elected Official, resident of the Town, supplier, visitor, or any other person.
- Falsification or alteration of any records or reports including but not limited to employment applications, time records, work records, medical reports, absence reports, work-related injury reports, and claims for benefits provided by the Town.
- Preparation or manipulation of another employee's time record.
- Acts of sabotage, including the work of another employee. Making false statements about another employee, Elected Official, resident of the Town, supplier, visitor, or any other person. This includes knowingly making false accusations against another individual as to

allegations of discrimination, sexual harassment or other harassment that is in violation of Town policy or applicable law.

- Insubordination or willful refusal to comply with the lawful order or instruction of a supervisor or Department Head.
- Improper performance of job duties or repeated failure to perform assigned duties and responsibilities.
- Violation and/or disregard of safety rules or safety practices, including failure to wear assigned safety clothing or equipment, in such a way that jeopardizes the safety of the employee, another employee, Elected Official, resident of the Town, supplier, visitor, or any other person.
- Offensive or unprofessional behavior that is contrary to the Town's best interest, or any conduct that does not warrant public trust.
- Committing any violation of the law either on or off duty or on or off the work site that compromises or adversely affects the employee's fitness or ability to perform assigned job duties.
- Unauthorized expenditure of Town funds.
- Illegal gambling while on duty.
- Willful work slowdown, work stoppage, or interfering with or restricting the performance of another employee or in any other way interfering with Town operations.
- Careless or negligent use or operation of equipment, including vehicles and machinery.
- Unauthorized absences or failure to give proper notice of an absence or tardiness.
- Excessive tardiness and/or absences except those absences covered by state and/or federal statutes.
- Leaving work area without permission, as defined by the Department Head.
- Failure to adhere to the personal appearance/dress code policy.
- Sleeping on the job, unless authorized by a Department Head or supervisor.
- Personal activity during paid work time without the express permission of the Department Head.
- Use of personal listening devices (e.g. cellphones with headphones / earbuds) during paid work time without the expressed permission of the Department Head. (Note: use of such devices is permitted during meal breaks and authorized rest breaks.)
- Disruptive, loud, or boisterous behavior or horseplay in the workplace.
- Abusive language in the workplace, including racial slurs and epithets.
- Posting, removing, or defacing of notices, signs, or other written material without prior approval.

Disciplinary Procedure – Except as otherwise provided by a collective bargaining agreement, the following disciplinary procedure shall apply to employees covered by Civil Service Law Section 75:

- **Notice of Discipline** – An employee subject to discipline will be provided with a written Notice of Discipline (NOD) that will contain all charges and specifications.
- **Employee Answer** – The employee will have eight calendar days to respond to the charges. The employee's response must be in writing.
- **Disciplinary Hearing** – Unless there is a stipulation of settlement between the Town and the employee, the employee is afforded the right to a hearing in accordance with provisions established by Civil Service Law Section 75. The hearing upon such charges shall be held by the officer or body having the power to remove the person against whom such charges are preferred, or by a deputy or other person designated by such officer or body in writing for that purpose. The Appointing Authority will designate a hearing officer in accordance with Civil Service Law Section 75. The designation must be in writing. The hearing officer will set the time and place for the hearing. The hearing officer will make a record of the hearing which will be submitted to the Appointing Authority, with the hearing officer's recommendations, for review and decision.

Right to Representation – The employee may have representation by counsel or by a representative of a recognized or certified employee organization at the hearing and may summon witnesses on the employee's behalf.

Suspension Without Pay Pending Determination of Charges – Pending the hearing and determination of charges, the employee may be suspended without pay for a period not to exceed thirty calendar days.

Penalties – In the event the employee is found to be guilty of the charges, the penalty may consist of one of the following:

- Reprimand;
- Suspension without pay not to exceed two months;
- Demotion in grade and title; or
- Termination from Town employment.

Finding of Not-Guilty – In the event the employee is found to be not guilty of all charges and specifications, the employee will be restored to the employee's position with full pay for the period of suspension less the amount of any unemployment insurance benefits that the employee may have received during such period.

Limitations – Notwithstanding any other provision of law, no removal or disciplinary proceeding will be commenced more than eighteen months after the occurrence of the alleged incompetence or misconduct complained of and described in the charges. Such limitation will not apply where the incompetence or misconduct complained of and described in the charges would, if proved in a court of appropriate jurisdiction, constitute a crime.

Filing Requirements – In the event the employee is found to be guilty, a copy of the charges, the employee's written answer, a transcript of the hearing, and the determination will be maintained within the employee's personnel file. A copy will also be filed with the Albany County Department of Civil Service.

307 Code of Ethics

All employees of the Town of Berne have an obligation to act ethically, as provided by Article 18 of New York's State General Municipal Law (GML), New York State Penal Law § 195.00, and the Town's local codes of ethics.

Elected and appointed officials and appointed board and committee members may face competing goals that may make it difficult or impossible for them to make decisions that protect the common good. Conflicts of interest can arise where a financial interest, private business relationship, personal tie, or other circumstances are sufficient to require disclosure and recusal. The Town expects where conflicts of interest exist, elected and appointed officials and appointed board and committee members should disclose the conflicts and determine whether they can fairly make decisions on the issues before the relevant board. Where the answer is "no," those individuals should recuse themselves and not participate in discussions with other board members, vote on the issues, or otherwise influence the decision-making process. Everyone should be mindful of potential conflicts and the appearance of impropriety and should disclose and recuse where appropriate.

Policy Statement - Pursuant to the provisions of Section 806 of the General Municipal Law, the Town Board is committed to upholding rules of ethical conduct for Elected Officials, Appointed Officials, and employees in order to maintain the high degree of moral and ethical conduct necessary to maintain public confidence. Therefore, the Town Board has adopted rules of ethical conduct. These rules are in addition to **Prohibited Conduct** as outlined in Section 305, Article 18 of the General Municipal Law and any other laws pertaining to ethical conduct.

Definitions - For the purpose of the Town of Berne's Code of Ethics, the following terms shall have the meanings indicated:

- **Officer or Employee** - will mean and refer to an officer or employee of the Town of Berne, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person will be deemed to be a municipal officer or employee solely by reason of being a volunteer firefighter or civil defense volunteer. A more complete description may be found in section 106 "Definitions".

- **Interest** - will mean and refer to a pecuniary or material benefit accruing to an officer or employee, unless the context otherwise requires.

Standards of Conduct - An officer or employee is subject to, and must abide by, the following standards of conduct:

- **Gifts** - An officer or employee may not directly or indirectly solicit any gift or accept or receive any gift having a value of twenty-five dollars or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise or any other form, under circumstances in which it could reasonably be inferred that such gift was intended to influence the officer or employee, or could reasonably be expected to influence the officer or employee, in the performance of official duties or was intended as a reward for any official action on the officer's or employee's part;
- **Business before the Town or one's own department** - An officer or employee may not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before the Town or one's own department over which the officer or employee has jurisdiction or to which the officer or employee has the power to appoint any member, officer or employee;
- **Representation before the Town for a contingent fee** - An officer or employee may not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of the Town, whereby the officer's or employee's compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this provision will not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered;
- **Disclosure of interest in legislation** - To the extent that an officer or employee knows thereof, the officer or employee, whether paid or unpaid, who participates in the discussion or gives official opinion to the Town Board on any legislation before the Town Board must publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest the officer or employee has in such legislation;
- **Investments which conflict with official duties** - An officer or employee may not invest or hold any investment, directly or indirectly in any financial, business, commercial, or other private transaction which creates a conflict with official duties;
- **Private employment** - An officer or employee may not engage in, solicit, negotiate for, or promise to accept private employment, or render services for private interests, when such employment or service creates a conflict with or impairs the proper discharge of official duties;
- **Confidential information** - An officer or employee may not disclose confidential information acquired in the course of official duties or use such information to further personal interest;

- **Future representation before the Town** - An officer or employee may not, after the termination of service or employment with the Town, appear before any board or agency of the Town in relation to any case, proceeding or application in which the officer or employee personally participated during the period of service or employment or which was under the officer's or employee's active consideration.
- **Appearance** – An officer or employee shall endeavor to avoid any actions that create the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

Penalties for Offenses - In addition to any penalty contained in any other provision of law, any person who shall knowingly violate any of the provisions of this code may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.

308 **Personnel Records**

Policy Statement – It is the policy of the Town to balance its need to obtain, use, and retain employment information with a concern for each employee's privacy. To this end, the Town will endeavor to maintain only that personnel information necessary for the conduct of the Town's business or required by federal, state, or local law. Personnel records will be maintained for current and past employees in order to document employment related decisions and comply with government record keeping and reporting requirements. It is essential that you keep your supervisor informed of any changes of important information. Your present address and phone number are essential for many purposes, including mailings from the employer to your home, and changes to the number of exemptions claimed for income tax withholding purposes. It is your responsibility to inform the employer immediately of any changes.

Content – The personnel records maintained by the Town include, but are not limited to, Employment Applications, Report of Personnel Change Forms; copies of job-required licenses and certificates, Federal and State Withholding Tax Forms, Retirement Enrollment/Waiver Forms, Health Insurance Enrollment/Waiver Forms, performance appraisals, grievance or dispute resolution notices, counseling memoranda, notices of discipline, and probationary reports.

Location of Files - All original personnel records for current employees will be kept in the Town Clerk's office and will be maintained by the Town Clerk.

Immigration (I-9) Forms – All Immigration (I-9) Forms will be kept in the Town Clerk's office in a separate file apart from the employee's personnel file.

Medical Records - All employee medical records will be kept in the Town Clerk's office in a separate locked file apart from the employee's personnel file and will be maintained by the Town Clerk.

Substance Testing Records - All employee substance testing records will be kept in the Town Clerk's office in a separate locked file apart from the employee's personnel file and will be maintained by the Town Clerk.

Change in Status – An employee must immediately notify the Town Clerk of a change of name, address, telephone number, marital status, number and age of dependents, beneficiary designations, and individuals to notify in case of emergency.

Review of Personnel Files – An employee may review and have copies made of the contents of the employee's own personnel file, with exception of letters of reference. Requests must be in writing to the Town Supervisor and will be scheduled at a mutually convenient time. An authorized official must be present when the employee inspects the file. The employee may not place any documents in the file without the approval of the Town Supervisor. Copies of records contained in an employee's personnel file may not be released to a third party without the written consent of the employee, unless federal, state or local laws require otherwise. An employee who is a member of a collective bargaining unit should refer to the collective bargaining agreement on the subject of access to personnel files.

309 *Separation from Employment*

Notice of Resignation (Employees) – An employee who intends to resign from employment must submit a written resignation to the employee's Department Head at least two weeks before the date of resignation is to be effective. All resignations shall be filed in the Town Clerk's Office.

Completion of Notice Period – When a resignation notice is provided by an employee, the Town reserves the right to waive some or all of the notice period.

Notice of Resignation (Town Officers) – A Town Officer (as defined by Public Officers Law) must resign by delivering a written notice to the Town Clerk. If no effective date is specified, the office becomes vacant immediately upon delivery of the notice to the Town Clerk. If a Town Officer wishes to resign at some future date, the Town Officer may specify a resignation date. However, if the resignation date is more than thirty days after delivery of the notice to the Town Clerk (ninety days for Justices), the resignation will become effective thirty days after such delivery (ninety days for Justices).

Notice of Resignation (Town Clerk) – The Town Clerk who intends to resign must submit a written resignation to the Secretary of State at least thirty calendar days before the date of resignation is to be effective.

Final Paycheck – Employees receive their final paycheck on the next regularly schedule payday. The final paycheck includes payment for accumulated vacation benefits, if applicable.

400 OPERATIONAL POLICIES

401 *Departmental Hours*

Normal Hours of Operation - The Town Board establishes the normal hours of operation at the annual organizational meeting. An employee's Department Head will establish the employee's work schedule, which may differ from the normal hours of operation depending upon the particular needs and requirements of the department. The Town Board reserves the right to approve all employee work schedules, except where otherwise prohibited by applicable State or Town Law.

Flex-Time - An employee may begin and/or end a given workday at a time requested by the employee and approved by the Department Head. Such "flex-time" must normally be during the time the department is open and available to the public. The employee's use of "flex-time" will be governed by the mutual needs and consent of the Department Head and the employee for a medical visit or sick note. The Town Supervisor and the Town Board reserve the right to approve all "flex-time" schedules.

Department Head Absences – Department Heads have duties that may require them to be absent from their offices at certain times during the day. In the event that a Department Head is absent from the office, basic departmental forms should be readily available for distribution and/or collection. It is the Department Head's responsibility to determine what services are to be provided and to schedule coverage of these basic services during scheduled business hours.

Overtime – A Department Head may require an employee to work additional hours beyond the employee's normal workday and workweek. An employee must receive prior approval from the employee's Department Head before working additional hours.

Refusal to Work Additional Hours – An employee who, after investigation, is found to have refused to work additional hours as directed will be subject to appropriate disciplinary action.

Arriving at Work Before or Leaving After Scheduled Work Hours – Arriving at work before the scheduled starting time or leaving work after the scheduled ending time for an employee's own convenience is permitted but is not to be included in working time. No work may be performed for the Town outside of the employee's regular work schedule unless prior approval has been obtained from the Department Head (i.e., unauthorized overtime is prohibited). Violations of this policy will result in appropriate corrective action. (This provision applies only to FLSA non-exempt employees).

Union Employees – The work schedules of employees covered by a collective bargaining agreement shall be governed by the applicable collective bargaining agreement.

402 *Meal and Rest Breaks and Breaks for Nursing Mothers*

Meal Breaks – An employee who works more than six hours in a given day will receive an unpaid, duty-free meal break not to exceed thirty minutes.

Scheduling of Meal Breaks – Scheduling of meal breaks must be approved by the Department Head in accordance with the needs and requirements of the department. Meal breaks must normally be taken in the middle of the employee's workday. Unless otherwise directed by the Department Head, an employee may leave the worksite during the meal break.

Observance of Meal Breaks – In accordance with New York State regulations, an employee who works more than six hours in a given day is required to take the scheduled meal break. An employee is not allowed to work through the meal break to make up lost work time or to leave work early. In addition, the meal break may not be taken at the end of an employee's workday in order to leave work before the normal quitting time.

Rest Breaks – Employees in clerical or administrative positions may take brief, informal breaks to attend to personal needs. Employees in labor-intensive positions will normally receive a paid, duty-free rest period of up to fifteen minutes to be taken approximately in the middle of the first half of the employee's workday and again during the middle of the second half of the workday. An employee who chooses not to take a rest period will not be entitled to leave before the normal quitting time and will not receive extra pay for the time worked.

Approval of Rest Breaks – Rest breaks must be approved by the employee's Department Head in accordance with the needs and requirements of the department. Unless otherwise specified by departmental rules, all rest breaks must be taken at the worksite and may not exceed the time allowed.

Breaks for Nursing Mothers to Express Breast Milk – Employees who are nursing mothers shall be allowed to use a reasonable break (generally between twenty to thirty minutes) in addition to the employee's meal and rest breaks to express milk for a nursing child. The Town will provide this break at least once every three hours if requested by the employee. This provision applies to nursing mothers for up to three years following childbirth. The Town will make a reasonable effort to provide a room or location other than the restroom or toilet stall, within walking distance to the employee's workspace, or other location in close proximity to work so that nursing mothers can express in private. An employee wishing to avail herself of this break is required to give the Town advance notice, preferably prior to the employee's return to work following the birth of her child, to allow the Town an opportunity to establish a location and to schedule leave time for multiple employees, if needed.

Union Employees – An employee who is a member of a collective bargaining unit is not covered by the Meal and Rest Breaks provisions set forth above and should refer to the applicable collective bargaining agreement.

403 *Emergency Situations*

Closing Procedures - It is the Town's policy to remain open during all normally scheduled work hours. However, there may be times when inclement weather, power failure, or another similar emergency requires the Town Offices to open late, close early, or shut down for an entire workday. In such an event, the Town Supervisor may authorize the closing of non-emergency operations and excuse certain employees from work.

Notification - In the event the Town Offices open late or remain closed for the day, the Town will attempt to notify employees via telephone.

Inclement Weather - Employees are expected to report to work and remain at work during inclement weather conditions unless otherwise notified by the Town. When Town Offices have NOT officially closed, an employee who does not report to work or requests to arrive at work late or leave work early must obtain prior authorization from the employee's supervisor. Paid vacation or personal leave must be taken, if available, or the time off is without pay. If an FLSA-exempt employee has no paid leave benefits available, the employee will only be docked if a full workday is taken.

Closing Effect on Compensation – Pay for FLSA non-covered or exempt employees will not be affected by an emergency closing. Pay for FLSA non-exempt employees will be in accordance with the provisions below:

- **During Work** - A full-time employee who is directed by the Town Supervisor to leave work due to an emergency closing will be paid for the remainder of the employee's normal workday at the employee's regular rate of pay. Such time will not be included as time worked for the purpose of computing overtime.

A part-time employee who is directed by the Town Supervisor to leave work due to an emergency closing will be paid for the remainder of the employee's normal workday. The employee may charge such absence to available vacation leave credits or make up the time at a later date if agreed to by the Department Head.

- **Prior to Reporting to Work** – A full-time employee who is directed not to report to work due to an emergency closing will be paid for the employee's normal workday at the employee's regular rate of pay. Such time will not be included as time worked for the purpose of computing overtime.

A part-time employee who is directed not to report to work will not be paid for the workday. Such part-time employee may choose to make-up the time at a later date if agreed to by the Department Head.

Compensation for Employees on Scheduled Leave - An employee who is out of work on vacation, personal, sick, bereavement, or jury duty leave during an emergency closing will be charged such leave as scheduled.

Union Employees – An employee who is a member of a collective bargaining unit is not covered by the Emergency Situations provision set forth above and should refer to the applicable collective bargaining agreement.

404 *General policy*

Smoking

For health and safety considerations, the Company discourages smoking. Smoking is prohibited in all locations on Town property except those specifically designated as smoking areas.

Personal Transportation

Transportation to and from work is the responsibility of each employee. If you have someone bringing you to, or picking you up from work, they must wait for you in areas provided for such a purpose.

Rideshare

We encourage employees to carpool. Interested individuals should contact their manager for more information. Employees are encouraged to contribute suggestions to help develop trip reduction plans.

Recreational, Social or Athletic Disclaimer Notice

The Town and its insurance carrier will not be liable for the payment of workers' compensation benefits for any injury which arises out of your voluntary participation in any off- duty recreational, social, or athletic activity which is not part of your work-related duties.

405 *Time Records*

Policy Statement - All **FLSA non-exempt employees** are required to complete an individual time record showing the daily hours worked. An **FLSA exempt employee** is not required to record daily attendance but must account for authorized paid leave taken by completing a time record indicating such.

Procedures - An employee required to complete a time record must comply with the following procedures:

- Time records and/or time clock records, if available in your assigned building, must be completed

by the close of each workday;

- All time worked, including the beginning and ending time, must be recorded;
- All paid and unpaid leaves of absence must be recorded;
- Employees must complete their own time record;
- The time record must be submitted to the Department Head at the time specified;
- The time record must be verified and signed by the Department Head;
- The Department Head is to submit time records to the Town Clerk at regular dismissal time on Friday of each week.

Correction of Errors - An employee must immediately bring errors in time records to the attention of the employee's Department Head who will investigate the matter and make and initial the correction once the error has been verified.

Falsification of Time Records - An employee who, after investigation, is found to have falsified or altered a time record, or the time record of another employee, or completed a time record for another employee, will be subject to disciplinary action. In extenuating circumstances where an employee is not able to complete the employee's own time record, the Department Head may complete the time record on behalf of the employee.

406 *Bonding*

Insurance – The Town will provide bonding insurance for an eligible employee who is required to act in a fiduciary capacity.

407 *Expense Reimbursement*

Policy Statement – Upon proper authorization of the Town Board, an employee or Elected Official will be reimbursed for expenses associated with carrying out Town business, including, but not limited to, meals, lodging, mileage, parking, highway tolls, and training and membership fees. All required documentation and corresponding receipts must be submitted to the Town Clerk by the last day of the month for the reimbursement to be processed.

Mileage - An employee who is directed by the appropriate Department Head or supervisor to use the employee's own vehicle to conduct Town business will be reimbursed at the then current mileage rate set by the Internal Revenue Service.

Education and Training – Upon proper authorization of the Town Board, an employee

will be reimbursed for training courses that are directly related to the employee's present job. Employees must first seek approval from their Department Head before the request is presented to the Town Board.

Required Membership Fees – Upon proper authorization of the Town Board, an employee required to hold membership in a professional organization as part of the employee's job will be reimbursed for any required dues and/or fees.

Union Employees – the **Education and Training** and **Required Membership Fees** provisions set forth above do not cover an employee who is a member of a collective bargaining unit. Employees covered under collective bargaining should refer to their applicable collective bargaining agreement.

408 *Vehicle Usage*

Policy Statement – All vehicles and related equipment of the Town of Berne are owned and maintained for the purpose of conducting official business of the Town. Said vehicles and equipment may not be used for the personal use or private gain of any official or employee, nor for any other purpose which is not in the general public interest.

Standards – For the purpose of compliance with this policy, the following standards must be met at all times:

- Town vehicles and related equipment must remain under the general administrative jurisdiction and direction of the Department Head to which it is assigned.
- Town vehicles must be assigned to specific Town officials and employees for specific purposes and tasks. Said vehicles may not be used for any unauthorized purpose nor to conduct personal, private, or non-Town related business.
- Town vehicles must always be operated in a safe and responsible manner and in compliance with all applicable motor vehicle and traffic laws in effect. Employees are responsible for any driving infractions or fines that result from their operation of Town vehicles and must report them to their Department Head. The Town is responsible and will pay for any fines that would typically be levied against the owner of the vehicle for infractions related to the vehicle itself.
- Any accident involving a Town vehicle, regardless of severity, must be reported immediately to the appropriate Department Head. The Department Head must file an accident report with the Town Supervisor's office within twenty-four hours.
- The use of a cell phone when driving on Town business must be compliant with all applicable laws and/or regulations.
- Town vehicles may not be used to transport persons who are not officials or employees of the Town of Berne, nor material not related to the conduct of official Town business, without direct authorization by the appropriate Department Head or the Town Board.

- Town vehicles must always be maintained in a safe and secure condition when not in use, including being locked and/or under direct observation; and all keys maintained under controlled and authorized jurisdiction of the appropriate Department Head.
- No advertisements, signs, bumper stickers or other markings of a political or commercial nature may be displayed on Town vehicles at any time, except those of a limited community service nature that have been authorized by the Town Board.

Policy Violations - Violations of this policy may result in loss of vehicle driving privileges and/or disciplinary action, up to and including termination.

409 *Driver's License / Insurance Requirements*

Requirement – An employee who is required to drive either a Town-owned vehicle or the employee’s own personal vehicle to conduct business on behalf of the Town, must possess at the time of appointment, and must maintain throughout employment, a valid New York State driver's license. Proof of such license must be on file with the Town. If a personal vehicle is used to conduct business on behalf of the Town, the employee is responsible for ensuring liability insurance coverage meeting NYS requirements is appropriately maintained.

Commercial Drivers – An employee who operates a vehicle which requires a Commercial Driver’s License (CDL), must maintain such license throughout employment. Proof of such license must be on file with the Town. In accordance with the federal Commercial Motor Vehicle Safety Act of 1986, a commercial driver must notify the Town within thirty days of a conviction of any traffic violation (except parking), no matter where or what type of vehicle the employee was driving.

Loss of Driver’s License – An employee who is required to possess a driver’s license or CDL license in order to perform certain job duties and responsibilities must immediately notify the appropriate Department Head in the event the license is suspended or revoked. The loss or suspension of the driver’s license or CDL license may affect the employee’s continued employment with the Town, including termination of employment for inability to perform the duties of the job. The Town will utilize the NYS Department of Motor Vehicles’ “License Event Notification Service” (LENS) to monitor activity that may negatively impact an employee’s ability to maintain a required license.

Insurability Standards – It shall be solely the responsibility of a Town employee to meet or exceed all insurability standards, as established from time to time by the Town Board or the Town’s insurance carrier, which are required for the use or operation of a Town vehicle. Any Town employee who has any of the following during the most recent three-year period will be deemed to have violated the insurability standard and will not be allowed to operate any Town vehicles:

- Conviction of DWI / DWAI
- Conviction of Reckless Driving
- Suspended or Revoked Driver's License
- Conviction of Speeding 25 MPH or more above the speed limit
- Conviction of a Drug or Alcohol offense which would materially affect one's ability to operate a vehicle
- Conviction of Hit and Run/Leaving the scene of an accident
- Conviction of Two or more at-fault accidents
- Conviction of Three or more moving violations in the past three years
- Conviction of failure to stop for stopped school bus
- Less than three years driving experience

Failure to maintain acceptable insurability standards may affect the employee's employment status with the Town.

410 *Supplies, Tools and Equipment, and Fuel Usage*

Supplies - An employee may not use office supplies for personal use, including, but not limited to, paper, envelopes, and postage.

Office Tools and Equipment - An employee may use computers, fax machines, and copiers for personal use but not for furtherance of any business or personal financial gain. If the fax transmission is long distance, the employee must reimburse the Town for the cost of the call. The employee is responsible for the proper care of all equipment while it is being used for personal use and must repair or replace any equipment damaged by the employee as a result of negligence or intentional misuse.

Mechanical Tools and Equipment - An employee may not use the Town Garage or tools and equipment for personal use. An employee must repair or replace any tool either lost or damaged by the employee as a result of negligence or intentional misuse.

Fuel - An employee may not use gasoline, fuel oil, or motor oil for personal use or for any other vehicle not owned by the Town.

411 *Smart Phones and Mobile Devices*

Purpose – This policy outlines the use of mobile devices by employees of the Town of Berne. This policy applies to all employees who: use, or are using, a personal mobile device for work purposes, use a Town owned mobile device or bring a personal mobile device onto Town property.

Policy – Use of personal mobile devices: Employees have the opportunity to use their personal devices for work purposes when authorized in writing, in advance, by the Town. Personal electronic devices include, but are not limited to, personally owned cell phones, tablets, laptops and computers. The use of personal devices is limited to certain employees

and may be limited based on technology. Employees will not receive any compensation for the use of personal devices. By using a personal device, the employee assumes all responsibility for damage repairs or replacement of the device. Employees who have not received authorization will not be permitted to use personal devices for work purposes.

Use of Town-Owned Mobile Devices – Employees may be issued a Town owned mobile device. The use of these devices is contingent upon continued employment with the Town of Berne and the device remains the sole property of Town of Berne. Town provided mobile devices are part of an umbrella plan and may share minutes and data usage. Use of minutes or bandwidth for non-Town related activity is not permitted and may result in disciplinary action.

Security-Employees must put a PIN, password or other security measures in place on every device that is used to access Town information. Employees, at the discretion of the Town, may be required to have mobile device management software installed on their personal mobile devices as requirement for accessing Town data. This software may monitor emails, text messages and photos, the physical location of the device and other such information as considered to be in compliance with this technology policy. This software shall be operational prior to using the device for work purposes. When possible, employees should use two-factor or two-step verification for added application/device security. Employees may not use cloud-based apps or backup that allows Town related data to be transferred to unsecured parties. In order to prevent the leakage of Town confidential data and to prevent the possibility of other security issues, mobile devices may not be synchronized to other devices in the employee's home. Making any modifications to the device hardware or software, or installing additional hardware or software, beyond authorized and routine installation updates is prohibited. Employees may not use unsecured Internet sites. Family and friends should not use personal devices that are used for Town purposes.

Employees whose personal devices have camera, video, or recording capability are restricted from using those functions anywhere in the building or on Town property at any time unless the specific use of those functions is a requirement for town-required documentation.

Lost, Stolen, Hacked, or Damaged Equipment – Employees are expected to protect mobile devices used for work-related purposes from loss, damage, or theft. In an effort to secure sensitive Town data, employees are required to have remote wipe software installed on their device. This software allows all data to be erased remotely in the event the device is lost or stolen. The remote wipe process will remove all programs and data from the phone and reset it to factory defaults. The Town of Berne is not responsible for loss or damage of personal applications or data resulting from the use of Town provided or mandated applications or remote wiping.

Employees must notify the Town of Berne immediately in the event their mobile device is lost or stolen. If the mobile device is damaged, the employee must notify the Town immediately. The employee will be responsible for the cost of repair or replacement.

Employees may receive disciplinary action up to and including termination for damage to Town owned mobile devices caused willfully by the employee.

Acceptable Use – While at work, employees are expected to exercise the same discretion in using their personal devices as is expected for the use of Town devices. Town policies pertaining to harassment, discrimination, retaliation, trade secrets, confidential information and ethics apply to the use of personal devices for work-related activities.

Excessive personal calls, e-mails, or text messaging during the workday, regardless of the device used, can interfere with employee productivity and be distracting to others. Employees must handle personal matters on non-work time and ensure that friends and family members are aware of this policy. Exceptions may be made for emergency situations.

Mobile devices shall be turned off or set to silent or vibrate mode during meetings, conferences, and in the office environment and any other locations where incoming calls may disrupt normal workflow.

Privacy – No employee should expect any privacy except that which is governed by law.

Town of Berne has the right, at any time, to monitor and preserve any communications that utilize the Town of Berne's networks in any way, including data, voicemail, telephone logs, Internet use, network traffic, etc., to determine proper utilization, regardless of the ownership status of the device used to access the Town's networks and data.

The Town of Berne reserves the right to review, retain, or release personal and Town-related data on mobile devices to government agencies or third parties during an investigation or litigation. The Town of Berne may review the activity and analyze usage patterns and may choose to publicize this data to assure that the Town of Berne's resources in these areas are being utilized according to this policy.

No employee shall knowingly disable any network software or system identified as a monitoring tool.

Safety – Employees are expected to follow applicable state or federal laws or regulations regarding the use of electronic devices at all times.

Employees whose job responsibilities include regular or occasional driving are expected to refrain from using their mobile devices while driving. Regardless of the circumstances, including slow or stopped traffic, employees are required to pull off to the side of the road and safely stop the vehicle before placing or accepting a call or texting. The only exception to this stipulation is if the call can be placed or accepted entirely hands-free.

Employees who are charged with traffic violations resulting from the use of mobile devices while driving will be solely responsible for all liabilities that result from such actions.

Enforcement – Failure to follow policies and procedures may result in disciplinary action up to and including termination of employment.

Upon resignation or termination of employment, the mobile device will be reset to factory defaults using the remote wipe software. The Town of Berne will not be responsible for loss or damage of personal applications or data resulting from returning the device to its factory default settings.

At any time, an employee may be asked to produce the mobile device for inspection. The purpose of these inspections is to ensure that the employee is following Town policy.

412 *Computer and Laptop Policy*

Purpose – The Town of Berne provides laptop and desktop computers to employees to supplement the professional responsibilities required by their position and concordant with the guidelines of the Town. The ultimate decision for laptop and desktop assignments is made by the Town Supervisor. A decision to provide a laptop or desktop is based upon identifiable need and available budget. These computers may be used on and off Town property. The purpose of this program is to facilitate the administration of the town and support communication among employees and the general public.

Policy – A Town provided computer is intended to serve as your primary computer workstation. The provided equipment is intended for use for Town-related business. It is not intended as a replacement for any computers you may own personally. Use of the laptop for personal purposes should be within the standards of good judgment and common sense, and in compliance with the Towns published policies on acceptable use.

Security – Employees must put a PIN, password or other security measures in place on every device that is used to access Town information. When possible, employees should use two-factor or two-step verification for added application/device security. Employees may not use cloud-based apps or backup that allows Town related data to be transferred to unsecured parties. In order to prevent the leakage of Town confidential data and to prevent the possibility of other security issues. The laptop will be configured with a standard suite of programs that are appropriate for the type of computer you received based upon the Towns software standards. It is also possible that other applications will be provided to you by the Town, based upon your professional needs or the requirements of the laptop or desktop computer. Making any modifications to the device hardware or software, or installing additional hardware or software, beyond authorized and routine installation updates is prohibited.

Employees may not use unsecured Internet sites. Family and friends may not use computers that are used for Town purposes.

Confidential information should not be stored on laptops unless additional protections are used to protect the data. Confidential data includes data fields like SSN, address, birth date, credit card number, credit card expiration date, or health related records alone or in some combination. All confidential data must be protected from unauthorized access by the use of information security safeguards such as encryption, access controls and operational security.

Home computers should not store confidential information at any time unless secured by log in.

Laptop and desktop computers remain the property of the Town of Berne. Each unit is labeled with a unique property ID. The property ID allows the Town to manage unit assignments, coordinate repairs, and maintain the hardware and software systems. Property ID tags may not be removed.

Lost, Stolen, Hacked, or Damaged Equipment – Employees are expected to computing devices used for work-related purposes from loss, damage, or theft.

Employees must notify the Town of Berne immediately in the event their mobile device is lost or stolen. It is the employee's responsibility to take appropriate precautions to prevent damage to or loss/theft of their laptop computer. The employee may be responsible for certain costs to repair or replace the computer if the damage or loss is due to negligence or intentional misconduct. If a laptop is lost or stolen it must be reported to the Town Supervisor immediately. Theft or loss that occurs on Town property should be reported to Town Supervisor. For theft or loss off Town property, the loss must be reported to the Town Supervisor and the local police. The police report should include the serial number for the lost computer. You will need to provide the Town with a copy of the police report within 48 hours of the discovery of the loss. State law requires notification of a security breach without unreasonable delay.

Employees may receive disciplinary action up to and including termination for damage to Town owned mobile devices caused willfully by the employee.

Back Up of Data – The employee is responsible for maintaining an appropriate backup of the laptop or desktop computer, especially the work-related documents and data files created that cannot be retrieved by reinstalling the operating system or programs. Backups should only be stored in Town approved and supplied cloud space or, in the absence of internet services, be temporarily stored on removable media.

Use of Removable Media – Removable media is defined as any portable storage medium. Removable media examples include, but are not limited to, the following: CDs, DVDs, Flash Cards, Jump Drives, and Hard Drives. In general, the use of removable media is allowed for Town of Berne employees to conduct appropriate Town related business. The exception to this is the use of removable media to transport sensitive data (i.e. employee records that could specifically identify an individual). In this case, the use of removable media is not allowed unless no other means exist to transport the data – in such cases encryption must be used to guard against the compromise of data on media that is

misplaced. Users are encouraged to use the disk storage that is available on the Town of Berne servers and Town of Berne provided cloud storage.

Acceptable Use – The use of Town computing resources, like the use of any other Town provided resource and like any other Town related activity, is subject to the requirements of legal and ethical behavior. Thus, legitimate use of a computer, computer system, “email” or network does not extend to whatever is technically possible. Although some limitations are built into computer operating systems and networks, those limitations are not the sole restrictions on what is permissible. Users must abide by all applicable restrictions, whether or not they are built into the operating system or network and whether or not they can be circumvented by technical means.

All users of Town computing resources must comply with all federal, New York, and other applicable law; all generally applicable Town of Berne rules and policies; and all applicable contracts and licenses. This policy applies to all users of Town of Berne computing resources, whether affiliated with the Town or not, and to all uses of those resources, whether on Town Property or from remote locations. While at work, employees are expected to exercise the same discretion in using their personal devices as is expected for the use of Town devices. Town policies pertaining to harassment, discrimination, retaliation, trade secrets, confidential information and ethics apply to the use of personal devices for work-related activities.

Unacceptable Use – The following activities are, in general, prohibited.

Under no circumstances is an employee or contractor of Town of Berne authorized to engage in any activity that is illegal under local, state, federal or international law while utilizing Town of Berne- owned resources.

The list below is by no means exhaustive but attempts to provide a framework for activities which fall into the category of unacceptable use.

The following activities are strictly prohibited, with no exceptions:

- 1) Violations of the rights of any person or of the town protected by copyright, trade secret, patent or other intellectual property, or similar laws or regulations, including, but not limited to, the installation or distribution of "pirated" or other software products that are not appropriately licensed for use by the Town of Berne.
- 2) Unauthorized copying of copyrighted material including, but not limited to, digitization and distribution of photographs from magazines, books or other copyrighted sources, copyrighted music, and the installation of any copyrighted software for which the Town of Berne or the end user does not have an active license is strictly prohibited.
- 3) Introduction of malicious programs into the network or server (e.g., viruses, worms, Trojan horses, e-mail bombs, etc.)
- 4) Under no circumstances is an employee or contractor of Town of Berne authorized to engage in any activity that is illegal under local, state, federal or international law while utilizing Town of Berne- owned resources.
- 5) Revealing your account password to others or allowing use of your account by others. This includes family and other household members when work is being done at home.

- 6) Using a Town of Berne's computing assets to actively engage in procuring or transmitting material that is in violation of sexual harassment or hostile workplace laws as defined by the State of New York and the Town of Berne.
- 7) Making fraudulent offers of products, items, or services originating from any Town of Berne account.
- 8) Making statements about warranty, expressly or implied.
- 9) Effecting security breaches or disruptions of network communication. Security breaches include, but are not limited to, accessing data of which the employee is not an intended recipient or logging into a server or account that the employee is not expressly authorized to access, unless these duties are within the scope of regular duties. For purposes of this section, "disruption" includes, but is not limited to, network sniffing, pinged floods, packet spoofing, denial of service, and forged routing information for malicious purposes.
- 10) Executing any form of network monitoring which will intercept data not intended for the employee.
- 11) Circumventing user authentication or security of any host, network or account.
- 12) Interfering with or denying service to any user.
- 13) Using any program/script/command, or sending messages of any kind, with the intent to interfere with, or disable, a user's terminal session, via any means, locally or via the Internet/Intranet/Extranet.
- 14) Providing information about, or lists of, Town of Berne employees to parties outside of the Town of Berne.

Privacy – No employee should expect any privacy except that which is governed by law.

Town of Berne has the right, at any time, to monitor and preserve any communications or data that utilize the Town of Berne's networks in any way, including data, voicemail, telephone logs, Internet use, network traffic, etc., to determine proper utilization, regardless of the ownership status of the device used to access the Town's networks and data.

The Town of Berne reserves the right to review, retain, or release personal and Town-related data on any device to government agencies or third parties during an investigation or litigation. The Town of Berne may review the activity and analyze usage patterns and may choose to publicize this data to assure that the Town of Berne's resources in these areas are being utilized according to this policy.

No employee shall knowingly disable any network software or system identified as a monitoring tool.

Enforcement – Failure to follow policies and procedures may result in disciplinary action up to and including termination of employment.

Upon resignation or termination of employment, the computing device will be reset to factory defaults. The Town of Berne will not be responsible for loss or damage of personal applications or data resulting from returning the device to its factory default settings.

At any time, an employee may be asked to produce the computing device for inspection. The purpose of these inspections is to ensure that the employee is following Town policy.

413 *E-mail Accounts*

Purpose – This policy outlines the use of email on all electronic device by employees of the Town of Berne. This policy applies to all employees who: use, or are using, a personal mobile device for work purposes, use Town owned mobile devices such as phones, tablets or notebooks, bring a personal mobile device onto Town property or use Town fixed computing assets such as desktop computers.

Policy – Town of Berne employees are provided with email accounts on the Towns web-based email system. A Town email account is a privilege, not a right, and use of the email account may be withdrawn for violations of Town of Berne’s requirements for responsible use of Town computing resources as set forth in this policy.

Email is to be used for Town of Berne business only. Confidential Town business and information may not be shared outside of the Town of Berne, without authorization, at any time. You may not conduct personal business using the Town of Berne email or email address.

Any email content that discriminates against any of classifications protected by the State of New York and/or The Town of Berne Policy is prohibited. Any employee who sends email that violates this policy will be considered to be in violation of the Town or State harassment policy.

Unacceptable Use – The following is considered unacceptable use of email resources.

The list below is by no means exhaustive, but attempt to provide a framework for activities which fall into the category of unacceptable use:

- Use of company email to set up personal businesses or send chain letters
- Forwarding of Town confidential messages to external locations or individuals
- Distributing, disseminating or storing images, text or materials that might be considered indecent, pornographic, obscene or illegal
- Distributing, disseminating or storing images, text or materials that might be considered discriminatory, offensive or abusive, in that the context is a personal attack, sexist or racist, or might be considered as harassment
- Accessing copyrighted information in a way that violates the copyright
- Unauthorized use of an unassigned town password or email account
- Emailing unsolicited personal views on social, political, religious or other non- business-related matters
- Emailing unsolicited commercial or advertising material
- Sending unsolicited email messages, including the sending of "junk mail" or other advertising material to individuals who did not specifically request such material (email spam).
- Any form of harassment via email, telephone or paging, whether through language, frequency, or size of messages.

- Unauthorized use, or forging, of email header information.
- Solicitation of email for any other email address, other than that of the poster's account, with the intent to harass or to collect replies.
- Creating or forwarding "chain letters", "Ponzi" or other "pyramid" schemes of any type.

Privacy – No employee should expect any privacy except that which is governed by law.

Town of Berne has the right, at any time, to monitor and preserve any communications that utilize the Town of Berne's networks in any way, including data, voicemail, telephone logs, Internet use, network traffic, etc., to determine proper utilization, regardless of the ownership status of the device used to access the Town's networks and data. The Town of Berne reserves the right to review, retain, or release personal and company-related data on mobile devices to government agencies or third parties during an investigation or litigation. The Town of Berne may review the activity and analyze usage patterns and may choose to publicize this data to assure that the Town of Berne's resources in these areas are being utilized according to this policy. No employee shall knowingly disable any network software or system identified as a monitoring tool.

Enforcement – Any employee found to have violated this policy may be subject to relevant disciplinary action, up to and including termination of employment.

414 *Social Media*

Purpose – This policy establishes guidelines for the establishment and use of social media sites by the Town of Berne as a means of conveying Town of Berne ("Town") information to its citizens. These guidelines include, but are not limited to, the Town web site and any social media websites.

The intended purpose for establishing Town of Berne social media sites is to disseminate information from the Town, about the Town, to its citizens and visitors, and as an alternate and additional means of communication during emergency situations.

Utilization of Town approved social media sites must adhere to this policy. The guidelines may be supplemented by administrative rules and regulations issued by the Berne Town Board. This policy may be amended at the direction of the Town Board.

The Town of Berne has an overriding interest and expectation in deciding what is "spoken" on behalf of the Town, on Town social media sites.

For purposes of this policy, "social media" is understood to be content created by individuals, using accessible, expandable, and upgradable publishing technologies, through and on the Internet. Examples of social media include Facebook, blogs, MySpace, RSS, YouTube, Second Life, Twitter, LinkedIn, Delicious, and Flickr. For purposes of this policy, "comment/postings" include information, articles, pictures, videos or any other form of communicative content posted on a Town of Berne social media site.

General Policy:

- 1) The establishment and use by any Town department of a Town social media site is subject to approval by the Town Board. All Town of Berne social media sites shall be administered by the Town Board's designated "Administrator". The Administrator shall be appointed or reauthorized yearly at the Town's organizational meeting held in January.
- 2) Town social media sites should make clear that they are maintained by the Town of Berne and that they follow the Town's Social Media Policy. Postings on the Town's Facebook sites may only be written by Town personnel and approved by the Town's Administrator.
- 3) Comments by the general public on Town approved social media sites shall not be considered, for regulatory purposes, as official correspondence with the Town. All official correspondence with the Town shall be made by written communication to the Town's mailing address or through electronic e-mail to the Town electronic address.
- 4) Wherever possible, Town social media sites should link back to the official Town of Berne website for forms, documents, online services and other information necessary to conduct business with the Town of Berne.
- 5) The Administrator will monitor content on Town's social media sites to ensure adherence to both the Town's Social Media Policy and the interest and goals of the Town of Berne.
- 6) The Town reserves the right to restrict or remove any content that is deemed in violation of this Social Media Policy or any applicable law. Any content removed based on these guidelines must be retained by the Administrator for a reasonable period of time, and include the time, date and identity of the poster, when available.
- 7) These guidelines shall be on display to users or made available by hyperlink whenever possible.
- 8) All Town social media sites shall adhere to applicable federal, state and local laws, regulations and policies.
- 9) Employees representing the Town government via Town social media sites must express themselves using language and content that reflects the highest standards of decorum and in accordance with all Town policies.
- 10) This Social Media Policy may be revised at any time by the Town board.
- 11) Social media sites are subject to the records retention rules and regulations of the State of New York.

Comment/Postings Policy:

- 1) The Town and its representatives are expected to serve all constituents in a civil, respectful and unbiased manner.
- 2) The following forms of content shall not be permitted on Town of Berne social media sites and are subject to removal and/or restriction by the administrator or his/her designees:

- a. Comments/postings not related to the original topic, including random or unintelligible comment/postings;
 - b. Profane, obscene, violent, or pornographic content and/or language;
 - c. Content that promotes, fosters or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, or national origin;
 - d. Defamatory or personal attacks;
 - e. Threats to any person or organization;
 - f. Comment/postings in support of, or in opposition to, any political campaigns or ballot measures;
 - g. Solicitation of, or for commerce, including but not limited to advertising of any business or product for sale;
 - h. Conduct or communications in violation of any federal, state or local law;
 - i. Encouragement of illegal activity;
 - j. Information that may compromise the safety or security of the public or public systems;
 - k. Content that violates a legal ownership interest, such as a copyright, of any party.
- 3) Comments posted by members of the public on any Town of Berne social media site reflects the opinions of the individuals posting the comments. Publication of a comment does not imply endorsement of, or agreement by, the Town of Berne, nor do such comments/postings reflect the opinions or policies of the Town of Berne.
 - 4) The Town of Berne reserves the right to deny access to Town of Berne social media sites, at any time and without prior notice, to individuals who violate the Town's Social Media Policy.
 - 5) Departments shall monitor their social media sites for comment/postings requesting responses from the Town, and for comments/postings in violation of this policy.
 - 6) Employees must include their name and title when responding to a comment or question on Town social media sites. Employees shall not share personal information about himself or herself, or other Town employees.
 - 7) Postings to Town of Berne Facebook sites, as well any other media sites, are bound by the respective Statement of Rights and Responsibilities associated by each individual website. The Town shall report any violation of any Statement of Rights and Responsibilities to the respective website.

Data Collection – In order to improve the content and usability of this website, the Town of Berne may automatically collect several categories of information from users. This information includes the following:

- 1) The Internet Protocol ("IP") address of your Internet Service Provider ("ISP") and/or your computer, if your computer has an IP address assigned directly to it.
- 2) The Domain Name ("Domain Name") of your Internet Service Provider ("ISP") and/or your computer, if your computer has a domain name assigned directly to it.
- 3) The type of browser (such as, for example Internet Explorer, Opera, Firefox, Chrome, etc.) used and the operating system resident on your computer.

- 4) The date and time a user visited the site.
- 5) The web pages accessed at the site, as well as any applications used and forms data.
- 6) The Uniform Resource Locator ("URL") of the site that a user visited prior to the Town of Berne Web Site.
- 7) The Town of Berne uses this information to identify site performance needs; to ensure compatibility with the technology used by the web sites visitors, and to generally add and improve services offered on the Town of Berne's web site. In order to accomplish these goals, from time to time, the Town may conduct statistical analysis of the data it collects.
- 8) The Town of Berne does not collect data for commercial or marketing purposes, and does not sell, exchange, or otherwise distribute the data collected by the Town of Berne's web site for commercial or marketing purposes.

Information Submitted to The Town of Berne – During a session on the Town of Berne web site, a user may affirmatively submit information to the town by, among other means, electronic mail ("e-mail"), filling in and submitting an on-line form, or screening for benefits and services. Such affirmatively submitted information is stored in a secure environment and will be used by the Town in the furtherance of its duties and/or obligations to its citizenry (i.e., "governmental purposes").

The governmental purposes to which your affirmatively submitted information may include, but are not limited to, the following:

- 1) Helping the Town respond to a request for information not readily available from the Town of Berne's website
- 2) Investigating a problem reported to the Town.
- 3) Keeping lists of parties interested in some particular issue or facet of the Town of Berne about which the Town anticipates issuing further information in the future.
- 4) Sending informational updates and conducting outreach on topics such as, but not limited to, public benefits and services and upcoming City events.
- 5) Sharing information with other Town departments or other government agencies for the limited purpose of facilitating services and benefits, in accordance with all applicable federal, state, and local laws and regulations.
- 6) Disclosure of such information pursuant to a request made under Freedom of Information Law ("FOIL") or court order, if such information is not protected by federal, or state, or local law.

If the Town of Berne sends electronic mail ("e-mail") to a user, such e-mail is NOT confidential, and is identical in nature to that information generally available to the public and news media.

Security and Monitoring:

- 1) In certain instances, a user may have the opportunity to receive or create a password to access or submit personally identifiable information. One should not divulge a password

to anyone, and the Town will never ask a user for a password in a telephone call, fax, e-mail or other form of unsolicited communication. When a user is finished with an application or applications that are password protected, such user should exit the relevant page(s). If the browser used to access said password protected pages is a publicly-accessible browser, users should close down the entire session and, if applicable or possible, flush any temporary caches or other areas where such a password might be stored subsequent to use, and logout of all applications.

- 2) The Town has integrated industry standard or better security measures and systems into the design, implementation and day to day operation of the Town of Berne web site and its underlying servers and networks. Furthermore, the Town maintains ongoing efforts to identify and/or block unauthorized intrusions into or onto the web site and to upload to or change information on or otherwise cause damage.
- 3) The act of using the Town of Berne's web site constitutes the User's express consent to the Town's monitoring of all uses of the system. If such monitoring reveals possible evidence of criminal activity or any other unauthorized use, system administration personnel may provide your information to law enforcement or other officials, as authorized or required by law.

Cookies – Cookies are text files, or entries in larger files, utilized to distinguish between visitors to a website, and to track information during multiple visits to a website. The Town may use "temporary cookies" on some parts or all parts of the Town of Berne's website.

The use of cookies is a standard practice among Internet websites. Most Internet web browsers may be customized to reject cookies, to only accept or reject cookies by user intervention, or to delete cookies. Rejecting and/or removing cookies, however, may lead to loss of functionality on those pages requiring cookies to function fully.

Children – No applications on the Town of Berne's web site specifically solicit information from minors or seek to determine whether the visitor is a minor. Consequently, because such information will not be specifically identified as being from minors, users should be aware that personally identifiable information submitted to the website by minors will be subject to being treated in the same manner as information given by an adult and may become subject to FOIL.

Third Party Links – The Town of Berne's website may provide links to, and may be linked from, local, State and federal government agencies, and from, or to, other websites. The existence and/or provision of those links neither constitutes nor implies endorsement of the destination or departure website(s) or of the content, viewpoint, accuracy, opinions, policy(ies), product(s), accessibility or privacy policy of said destination or departure website(s). Nor does any link between the Town of Berne website and a third-party website imply sponsorship of such website, or the creator of such website.

Some content on portions of the Town of Berne website resides on servers run by third parties. Each agency providing content for is bound by the Town of Berne Privacy Policy. Any agency using a third-party host, ISP, ASP or other combination of third-party transport, storage, content or application provision services shall require such third party to comply with the Town of Berne's Privacy Policy.

Intellectual Property – The content of the Town of Berne website is copyrighted and may contain some third-party images/graphics that are used with permission. Users are notified, therefore, that one should presume the need to obtain permission from the copyright holder before reproducing or otherwise using images/graphics from this website.

Changes to this Policy – The Town of Berne may change this policy from time to time and reserves the right to do so without notice.

415 *Personal Appearance Grooming and Dress Standards*

Policy Statement – It is in everyone’s best interest for all employees of the Town to present a professional image to the public. Cleanliness is an essential part of providing this image. A neat, clean, businesslike appearance is a requirement for all jobs. Your manager will inform you if there are any additional requirements for your position. It is the policy of the Town that each employee’s dress, grooming and personal hygiene should be appropriate to the work situation.

Standards – All employees are expected to dress in a manner consistent with good hygiene, safety and good taste. Acceptable personal appearance is an ongoing requirement of employment with the Town. The mode of dress varies in accordance with the type of work performed. For example, office personnel *that come in contact with the public* are required to wear clothes appropriate to a business office environment (e.g., distressed (worn-out looking) or torn jeans or dungarees, and suggestive/provocative type clothing are prohibited.) Employees whose jobs require them to come in contact with the public in *other areas* are expected to wear apparel consistent with that worn by persons dealing with the public in the community in similar capacities.

Any employee who has questions about whether a particular item or outfit is appropriate should discuss the matter with their supervisor before wearing it. Employees who are inappropriately dressed will be sent home and directed to return to work in proper attire. Such employees will not be compensated for the time away from work.

This is an overview of the Town’s policy on hygiene, dress and grooming standards. Employees are requested to ask their supervisor for more specific dress standards as required.

Safety Clothing and Equipment – An employee may be required to wear safety clothing and equipment as directed by the Department Head. If such is the case, the employee must comply with all safety requirements.

Uniforms – An employee may be required to wear a uniform as directed by the Department Head and/or as provided in a collective bargaining agreement. If such is the case, the employee must comply with all requirements.

416 *Solicitations/Distributions*

Policy Statement – It is the policy of the Town to prohibit solicitation and distribution on its premises by non-employees and to permit solicitation and distribution by employees only as outlined below.

During Working Hours – An employee may not distribute literature or solicit other employees during working hours without approval from the appropriate Department Head.

During Meal and Rest Breaks – With permission from the Department Head, an employee may distribute literature and solicit other employees during meal and rest breaks provided it does not interfere with the normal operations of the department, reduce employee efficiency, annoy fellow employees, or pose a threat to the Town's security.

417 *Disclosure of Information*

Policy Statement – The Town of Berne promotes open government and complies with all requirements regarding public access to information. However, the Town recognizes that certain documents, records, and other information pertaining to Town operations and activities contain sensitive and confidential information about Town residents and others who do business with or on behalf of the Town and/or its residents. Such information cannot be photocopied, duplicated, discussed, or otherwise disclosed to any outside party except in accordance with the Freedom of Information Law or any other applicable laws and regulations. An employee is also prohibited from sharing or otherwise disclosing such information with other Town employees, family members or friends who do not have a Town business reason to have such information.

Responsibility for Security of Confidential Information – Elected Officials, Department Heads and employees are responsible for maintaining the security of documents, records and other information that fall within their department operations. Any request from outside parties for disclosure of information under the Freedom of Information Law or any other applicable laws or regulations must be submitted to the Town Clerk.

Employee Personal Information – An employee should never provide a caller or visitor with confidential information regarding employees, including home addresses and personal telephone numbers. An employee should take the person's name and telephone number and inform the caller/visitor that a message will be forwarded to the employee.

418 *Visitors*

Policy Statement – It is the policy of the Town not to allow personal visitors during working hours, except for emergency situations. To ensure the security of Town Property, and to reduce the potential liability for injury to outsiders, personal visitors are not permitted in work areas or other areas not specifically set aside for the general public, such as equipment storage buildings, equipment maintenance areas or other such controlled places (not an exhaustive list) without permission from the areas Department Head. All personal visitors must register at the public reception area and may only enter the controlled area after the approval of the area Department Head has been received.

419 Purchasing

Policy Statement – The Town has established an official procurement policy that must be followed without exception. No employee shall make purchases for the Town, or use the Town’s name to make purchases, unless so authorized by the Town Board and in adherence to the procedures set forth in the procurement policy.

420 Maintenance of Work Area

Policy Statement – It is the policy of the Town that work areas must be kept safe, clean and orderly at all times.

Employee Responsibility – Employees are responsible for maintaining their work area in a safe and orderly fashion. As such, each employee should, at a minimum, do the following:

- Place coats, boots, umbrellas and other items of clothing in designated areas so that work areas are not unnecessarily cluttered;
- Report any existing or potential workplace hazards and safety violations to the Department Head;
- Abide by the smoking policy as specified in this Employee Handbook;
- Clean and store all tools and equipment and properly store any items, papers or confidential information in a manner prescribed by the Department Head.

Supervisory Responsibility – Department Heads are responsible for having their employees maintain their work areas according to the requirements of this policy. Each Department Head should:

- Make sure that aisles, floors and walls are free from debris and other unnecessary items;
- Monitor the facilities and equipment and issue maintenance requests where appropriate;
- Arrange for the removal of any items from the workplace that are not needed for the flow of business or the enhancement of employee comfort;
- Abide by and enforce the Town’s smoking policy;
- Ensure the proper disposal of all trash and waste.

421 *Personal Property*

Policy Statement – It is the policy of the Town to ask each employee to refrain from bringing unnecessary or inappropriate personal property to work. The Town recognizes that an employee may need to bring certain items to work. However, employees should take care to ensure that personal property brought to the workplace does not disrupt work or pose a safety risk to other employees.

Personal Liability – An employee is expected to exercise reasonable care to safeguard personal items brought to work. Except as otherwise provided by a collective bargaining agreement, the Town will not repair, replace, or reimburse an employee for the damage or loss of the employee’s personal property. An employee bringing personal property to the work place does so at one’s own risk.

Storing Personal Belongings on Town Premises – An employee is prohibited from storing personal belongings such as motor vehicles, boats, trailers, televisions, computer equipment, etc. on Town premises. The Town reserves the right to have any such items removed at the owner’s expense.

422 *Town Property*

Employee Responsibility – An employee will be responsible for any item issued by the Town which is in the employee’s possession and/or control, such as, but not limited to the following:

- Equipment, including Protective Equipment
- Identification Badges
- Keys
- Communication Devices
- Laptop computers and peripherals
- Books or other Reference Materials, including this Employee Handbook

Return of Property – Except as otherwise provided by a collective bargaining agreement, all Town property must be returned to the Town before the employee’s last day of work.

423 *Unauthorized Work*

Policy Statement – An employee may not perform work for any entity other than the Town during the employee’s authorized work hours, or claim that Town work was done when such is not the case. Employees must devote their full scheduled shift to Town business, as assigned.

424 *Outside Employment*

Policy Statement – It is the policy of the Town that an employee may engage in outside work as long as such outside work does not interfere with the employee’s performance standards, pose an actual or potential conflict of interest, or compromise the interests of the Town.

Guidelines – The following guidelines have been established for an employee who engages in outside work.

- An employee will be judged by the same performance standards and will be subject to the Town’s scheduling demands, regardless of any existing outside work requirements.
- If the Town determines that an employee’s outside work interferes with the performance or the ability to meet the requirements of the Town as they are modified from time to time, the employee may be required to terminate the outside employment if the employee wishes to remain employed by the Town.
- No Town equipment, supplies, or other material may be used by an employee for purposes other than Town work.
- Outside employment that does or may constitute a conflict of interest is prohibited. An employee may not receive any income or material gain from any entity outside of the Town for materials produced or services rendered while performing the employee’s Town job.
- An employee may not work on outside employment during any period which the employee is regularly scheduled to work for and is paid by the Town.
- A Town employee who engages in outside work must notify the person for whom the work is being performed that such work is being done on the employee’s own time and that the employee is not representing the Town while performing such work.

Employee Responsibility – A Town employee who wishes to engage in outside work is responsible for ensuring that the above guidelines are maintained. Questions should be directed to the Department Head.

Union Employees – In addition to the above guidelines, an employee who is a member of a collective bargaining unit may be subject to rules and/or guidelines regarding outside employment as set forth in the collective bargaining agreement or rules of the department to which the employee is assigned.

425 MONITORING AND SURVEILLANCE

The Town has installed, and may supplement in the future, video cameras that monitor public areas of Town property. These areas include but are not limited to town offices, storage facilities, parking areas, building perimeters and working areas of public buildings such as the town hall, transfer station, highway garage, community center, town parks, and any other area or facility where video surveillance and recording may be warranted. Video monitoring is used by the Town of Berne to identify safety concerns, maintain quality control, detect theft, and deter acts of harassment, workplace violence and other misconduct. Please be aware that your work activities in these areas may be recorded and may be viewed at any time, without further notice, by authorized personnel. Cameras have not been, and will not be, installed in restroom stalls, locker changing rooms, or any other area designated for changing clothes.

500 ABSENCE POLICIES

501 Attendance

Except as otherwise provided by a collective bargaining agreement, the following procedure shall apply regarding absence from work:

Union Employees – An employee who is a member of a collective bargaining unit is not covered by the provisions set forth below and should refer to the applicable collective bargaining agreement.

Tardiness – An employee must be ready and able to work at the time the employee is scheduled to begin work. In the event an employee is unable to report to work at the scheduled time, the employee must notify the employee's Department Head prior to the employee's scheduled starting time. The reason for tardiness and the expected time of arrival must be indicated to the Department Head.

Daily Notification – In the event an employee is unable to report to work, the employee must notify the employee's Department Head each day of the absence and state the reason for the absence. In the event the absence was pre-authorized, this requirement will be adjusted according to circumstances.

Scheduled Absences – Requests for scheduled time off, such as the use of vacation leave and personal leave, must be approved by the Department Head in advance. All requests for time off are subject to approval by the employee's Department Head on a case-by-case basis. Refer to Section 702, Vacation Leave, and Section 704, Personal Leave, for further details.

Unscheduled Absences – An employee who is unable to report to work must personally contact the employee's Department Head prior to the employee's scheduled starting time. The employee must speak directly with the Department Head, indicating the reason for the absence and when the employee expects to return to work. Asking another person to call in on the employee's behalf is not permitted. Leaving a message on an answering device or with a co-worker is not permitted. Notification requirements may be waived in cases of emergency.

Unexcused Absences – Notification of an absence to an employee's Department Head does not automatically mean the absence is authorized. Any time off from work that is without approval of an employee's Department Head is considered an unexcused absence. An unexcused absence is without pay and may result in disciplinary action, up to and including termination.

Early Departure – In the event an employee must leave work during the workday, the employee must receive permission from the employee's Department Head prior to leaving.

Leaving the Premises – An employee must obtain prior approval from the employee's Department Head to leave an assigned worksite during working hours due to a non-work-related reason. An employee who leaves an assigned worksite during the workday due to business reasons must notify the employee's supervisor in accordance with department policy.

Documentation of Absences – An employee may be required to provide appropriate documentation in justification of any absence. Documentation may include medical verification.

502 **Jury Duty Leave**

Jury Leave – In the event a full-time or part-time employee is required to perform jury duty on a day the employee is scheduled to work, the employee will receive paid jury duty leave. Such leave will not be subtracted from any of the employee's leave credits. An employee is obligated to notify the Commissioner of Jurors that the Town is paying the employee's full pay during jury duty. If the employee receives a jury stipend from the courts, such amount must be reimbursed to the Town. An employee can collect and keep any mileage or parking expense reimbursement that may be issued by the court system for performing jury duty.

The Town shall pay a temporary or seasonal employee up to \$40 of the employee's wages for the first three days the employee serves jury duty if on those days the employee is scheduled to work for the Town. After the first three days, the employee may be eligible for a stipend issued by the court system if the employee continues to serve on jury duty.

Notification of Jury Duty – When an employee receives notice to report for jury duty, the employee must immediately submit a copy of the notice to the employee's Department Head.

Return to Duty – In the event the employee is released from jury duty on a given day and there are two or more hours remaining in the employee's scheduled workday, the employee must report to work. The employee will be allotted time to return home and prepare for work.

Accrual of Benefits – The Town will continue to provide health insurance benefits for an eligible employee during the jury leave. Vacation leave, sick leave and holiday benefits will continue to accrue during jury duty leave.

503 **Military Leave and Military Leave of Absence**

Military Leave (New York State Law) – This section refers only to a paid leave for military service under New York State Law and does not affect an employee's entitlement to leave needed for military service under federal statute. The Town of Berne recognizes the importance of the Military Reserve and National Guard and will permit any employee

the use of military leave to perform ordered military duty or required training. The Town will grant such leave with pay for up to twenty-two workdays or thirty calendar days in a calendar year, whichever is greater. Such military leave beyond the twenty-two workdays or thirty calendar days in a calendar year will be unpaid, however accumulated vacation leave may, at the employee's option, be used at any time during the leave. In accordance with applicable New York State law, the employee may keep all pay received for military service.

Military Leave of Absence (Federal Law) – An unpaid leave of absence for a period of up to the federal statutory limits will be granted to an employee to serve in any of the Armed Forces of the United States. The employee's accumulated vacation leave may, at the employee's option, be used at any time during such leave of absence.

Leave For Military Spouses (New York State Law) – In accordance with NYS Labor Law §202-i, the Town will grant an unpaid leave of absence of up to ten days to an employee (who works an average of twenty hours per week) whose spouse is a member of the armed forces of the United States, National Guard, or reserves who has been deployed during a period of military conflict, to a combat theater or combat zone of operations. This leave shall only be used when the employee's spouse is on leave from such deployment. This does not preclude the employee's option to use available paid leave upon approval of the employee's Department Head.

504 **Leave for Infectious Disease Testing**

Policy Statement – The Town of Berne and The New York State Department of Health and Centers for Disease Control and Prevention will issue guidelines and mandatory practices required for the workplace in the event of a public health emergency. The Town has created a **Public Health Emergency Action Plan**, which has been created to communicate important information in the event of a declared public health emergency. The purpose of this plan is to protect employees against exposure and disease during an infectious disease outbreak. This plan goes into effect when an infectious disease that is transmittable through physical contact, by respiration of airborne particles, or by some other means, is designated by the New York State Commissioner of Health as a highly contagious communicable disease that presents a serious risk of harm to the public health.

Employees may be screened for symptoms of the infectious disease at the beginning of their shift and would be required to self-monitor throughout their shift and report any new or emerging signs or symptoms of the infectious disease to their supervisor. An employee showing signs or symptoms of the infectious disease would be removed from the workplace and directed to contact a healthcare professional for instructions.

Allowance – An employee will be allowed four hours of paid leave for undergoing a screening for the determination of exposure to said infectious disease. The allowed leave time may include the travel time to and from the appointment and any subsequent follow up consultation visits.

Documentation Requirements – If an employee applies for paid leave for an infectious disease screening procedure under this policy, documentation must be provided to the Department Head from the health care provider verifying that the absence from the workplace was for an infectious disease screening.

Union-Represented Employees – If, in the course of an emergency, the Town must implement something that impacts, fundamentally changes or conflicts with a collective bargaining agreement, the Town Supervisor shall contact the affected employees' bargaining representative(s), to discuss and/or negotiate any changes to the employees' terms and conditions to ensure the standards for public and work place safety are maintained.

505 **Leave for Cancer Screening**

Policy Statement – The Town of Berne complies with New York State Civil Service Law §159-b that entitles all Town employees to paid leave to undertake screening for cancer. This leave will not be charged against any available sick, vacation, personal, or other leave accruals. This does not preclude an employee's option to use other available paid leave for this same purpose.

Allowance – An employee will be allowed four hours of paid leave per year for the purpose of undergoing a screening procedure for cancer. Such paid leave will be accrued as of January 1 each year. If the employee does not exercise his/her rights to the leave, those hours are not carried forward to the next year. The allowed leave time may include the travel time to and from the appointment and any subsequent follow up consultation visits. In addition, the allowed leave may be staggered throughout the year until the maximum allowance has been reached.

Scheduling – An employee must receive prior approval from the employee's Department Head to take leave for this purpose. The request for leave should be submitted to the Department Head in writing a minimum of two days in advance. The Department Head will have total discretion in the approval of this leave, but will not unreasonably deny such request.

Documentation Requirements – If an employee applies for paid leave for a cancer screening procedure under this policy, documentation must be provided to the Department Head from the health care provider verifying that the absence from the workplace was for cancer screening. If an employee uses any other available leave for a cancer screening procedure, the provisions of the applicable leave policy (e.g. sick, personal, vacation) will apply; there is no requirement in such a case to provide specific documentation regarding cancer screening.

506 Leave for Blood, Plasma and/or Bone Marrow Donations

Policy Statement –The Town of Berne complies with New York State Labor Law §§202-a and 202-j that entitles Town employees who work an average of twenty hours or more per week to time off from work to donate blood, plasma and/or to undergo a medical procedure to donate bone marrow. This leave of absence will not be charged against any available sick, vacation, personal or other leave accruals. The leave allowed under this policy is unpaid, however, this does not preclude an employee’s option to use available paid leave for these purposes.

Blood and/or Plasma Donation Allowance – An employee may take unpaid leave of up to three hours per year under this policy. Such leave will be accrued as of January 1 each year. If the employee does not exercise his/her rights to this leave, those hours are not carried forward to the next year. The allowed leave may include the travel time to and from the appointment. The Town may require the employee to provide proof of blood and/or plasma donation.

Bone Marrow Donation Allowance – An employee may take unpaid leave in order to donate bone marrow as well as to recover from the procedure and for resulting medical care. The employee’s physician will determine the amount of leave required by the employee. However, the leave may not exceed 24 work hours unless the Town agrees to the use of additional leave. There is no limitation on how frequently an employee may take such leave. The Town may require the employee to provide proof of bone marrow donation.

Scheduling – An employee must receive prior approval from the employee’s Department Head to take leave for this purpose. The request for leave should be submitted to the Department Head in writing a minimum of two days in advance. The Department Head will have total discretion in the approval of this leave but will not unreasonably deny such request.

507 Bereavement Leave

Immediate Family - In the event of a death of a full-time employee’s or part-time employee’s immediate family member, the employee may take a paid leave of absence for up to three consecutive workdays immediately following the death, provided the employee was regularly scheduled to work on that day. Such leave will not be subtracted from any of the employee’s leave credits.

For the purposes of bereavement leave, immediate family shall be deemed to be spouse, child, step-child, parent, step-parent, sibling, grandparent, grandchild, or spouse’s parent, sibling’s spouse, or spouse’s sibling.

Additional Bereavement Leave – An employee may receive an unpaid leave of absence or use vacation leave credits and/or personal leave credits to extend bereavement leave due to the death of an immediate family member. The request must be submitted, in writing, to the Town Supervisor. The Town Supervisor will have total discretion in the approval of such additional bereavement leave, based upon the needs of the department.

Temporary or Seasonal Employees - A temporary or seasonal employee is not eligible for paid bereavement leave but may be allowed to take time-off without pay provided the employee has prior approval from the employee's Department Head.

Union-Represented Employees - An employee who is a member of a collective bargaining unit is not covered by or eligible for the Bereavement Leave provisions set forth above and should refer to the collective bargaining agreement on the subject of Bereavement Leave.

508 **Employees Volunteering as First Responder**

Excluding employees covered by a collective bargaining agreement, the following policy shall apply regarding those Town employees who are volunteer firefighters or emergency responders:

Policy – In the event a Town employee is called upon to perform volunteer duties as a firefighter or emergency responder during such employee's work hours, the employee, who voluntarily and at his or her sole discretion elects to respond to the emergency call, may be eligible to receive compensation to perform such duties ("Emergency Response Credit" or "ERC") provided the requirements in this section are satisfied.

Requirements – Employees shall not be eligible for ERC unless all of the following requirements are satisfied:

1. The employee receives supervisor authorization prior to leaving the work site, which may be approved or denied at the supervisor's sole discretion;
2. The employee return to the worksite immediately upon completion of the emergency call, unless such call ends after the end of the employee's scheduled work shift
3. The employee satisfies the documentation requirements below.

Documentation Requirements – The employee must account for all time spent responding to emergency calls on the employee's time sheet, including the time the employee left and returned to the worksite. The employee must also provide verification of the employee's attendance at such call by submitting an Emergency Response Verification Statement ("ERVS") signed by a designated officer of the fire or emergency response company on or before the end of the pay period in which the employee responded to the emergency call. The ERVS must include the date and time the employee arrived at the station and departed the station at the end of the call. Failure to provide such documentation on or before the end of the pay period will disqualify the employee from receiving ERC for the time spent outside of the worksite.

Employees on paid or unpaid leave, vacation, or otherwise not scheduled to work during the emergency call shall not be eligible for ERC.

Compensation –Employees meeting the eligibility requirements of this section shall receive ERC equal to the time detailed in the ERVS, or until the end of the employee’s schedule work shift, whichever is less. ERC will be compensated at the employee’s regular hourly rate of pay and paid on the regular pay date. Salaried employees shall not be eligible for ERC but may respond to an emergency provided all other requirements of this section are satisfied. ERC shall not be used in determining overtime pay or any other benefit. ERC may not be accumulated. ERC will not be subtracted from any of the employee’s other leave credits.

Liability Limits – Town employees responding to emergency calls shall not be deemed under the supervision or control of such employee’s supervisor or the Town for purposes of insurance, benefits, or liability from the time the employee leaves / clocks out of the worksite until the employee next clocks back in, regardless of the time detailed in the employee’s ERVS. A town employee shall not be eligible for or be covered any Town insurance policy, and the Town shall not be liable for, any acts or omissions of the responding employee, any third party, or the Town from the time the employee leaves worksite until the employee next clocks back in for the avoidance of doubt, the Town shall not be liable for:

1. Injury, death or other liability incurred or caused by or to the responding party or third party while such employee is en route to the company or location of the emergency
2. Injury, death or other liability incurred or caused by or to the responding party or third party while such employee is performing emergency services;
3. Injury, death or other liability incurred or caused by or to the responding party or third party while such employee is returning to the worksite.

The above is intended to be illustrative and not exhaustive of the Town’s liability limitations.

509 Family and Medical Leave Policy

Policy Statement – It is the policy of the Town of Berne to grant a full-time employee up to a maximum of twelve workweeks (defined by the employee's normal workweek) of unpaid leave in any twelve-month period for certain family and medical reasons. The twelve- month period is calculated as the twelve-month period measured forward from the date of the employee’s first leave usage.

Granting of Leave of Absence – The granting and duration of each leave of absence will be determined by the Town Board in conjunction with applicable federal and state laws, including Civil Service Law Sections 71, 72 and 73, as applicable, and the *Rules for the Classified Civil Service of Albany County*. If and when any employee meets the eligibility requirements under the *Family and Medical Leave Act*, the provisions of that Act will then take precedence over this policy.

Types of Leave – The following types of leaves of absence will be considered:

- **Sick Leave of Absence** – Employees who are unable to work because of a serious health condition or disability may be granted a sick leave of absence. This type of leave includes disabilities caused by pregnancy, childbirth, or other related medical conditions. The Town requires certification of an employee's need for sick leave, both before the leave begins and on a periodic basis thereafter, by the employee's health care provider.

In addition to leave provided under this policy, employees may be eligible for a leave of absence pursuant to Civil Service Law Section 71. Section 71 provides that **covered** employees shall be entitled to a leave of absence for at least one cumulative year (unless found to be permanently disabled) when disabled due to an occupational injury or disease as defined in the Workers' Compensation Law. This leave runs concurrently with the designated Family and Medical Leave. Employee should consult with their Department Head for further details regarding this provision.

- **Parental Leave of Absence** – Female employees, when not disabled by pregnancy or childbirth (see above), and male employees may be granted a parental leave of absence to care for a child upon birth or upon placement for adoption or foster care.
- **Family Care Leave of Absence** – Employees may be granted family care leave of absence for the purpose of caring for a child, spouse or parent who has a serious health condition. The Town requires certification of the family member's serious health condition, both before the leave begins and on a periodic basis, by the family member's health care provider.

Eligibility – To be eligible, an employee must meet the following requirements:

- The employee must have completed at least one year of full-time, continuous service during the previous twelve months prior to the date leave commences.
- Spouses who both work for the Town of Berne are allowed a combined maximum of twelve workweeks of leave for the birth or care of a newborn child, adoption or foster care of a child and to care for such newly placed child, or the serious health condition of a child, spouse or parent, during any twelve-month period.

Definitions – For the purpose of this policy, the following definitions will apply:

- **Serious Health Condition** will mean and refer to an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, or any subsequent treatment in connection with such inpatient care; or continuing treatment by a health care provider, including, but not limited to:
 - * A period of incapacity of more than three consecutive calendar days and any subsequent treatment or period of incapacity that also involves continuing treatment by a health care provider;
 - * A period of incapacity due to pregnancy or prenatal care;

- * A period of incapacity or treatment for such incapacity due to a chronic serious health condition;
 - * A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective; or
 - * A period of absence to receive multiple treatments, including any period of recovery, by a health care provider, or by a provider of health care services under orders of or on referral by a health care provider, for restorative surgery after an accident or other injury or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.
- **Health Care Provider** will mean and refer to a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; or any other person defined in the FMLA regulations, or defined by the State of New York as capable of providing health care services.
 - **Family Member** will mean and refer to:
 - * **Spouse** – means husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under state law for purposes of marriage in the State in which the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex or common law marriage that either: (1) was entered into in a State that recognizes such marriages; or (2) if entered into outside of any State, is valid in the place where entered into and could have been entered into in at least one State.
 - * **Parent** – biological parent or an individual who stands or stood in *loco parentis* to an employee when the employee was a child as defined directly below. This term does not include an employee's parents "in law".
 - * **Child** – biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in *loco parentis*, who is either under age eighteen, or age eighteen or older and "incapable of self-care because of a mental or physical disability". Persons who are "*in loco parentis*" include those with day-to-day responsibilities to care for and financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

Notification Requirements – If the need for leave is foreseeable, the employee must give notice to the Department Head at least thirty calendar days prior to the commencement date of the unpaid leave. This notice may be written or verbal, however, additional medical certification may be required for final approval of the absence as qualifying under this policy. The failure of an employee to give thirty days' notice of foreseeable leave with no reasonable excuse for the delay may result in the delay of the employee taking the leave until thirty days from the date of notice. When the need for leave is unforeseeable,

notification must be provided as soon as possible and practical.

Status Reports – The employee must periodically update the Department Head as to the employee's status and intent to return to work.

Medical Certification – The employee may be required to produce a medical certification issued by a health care provider that supports the need for a leave under this policy. When required, the employee must provide a copy before the leave begins, or if the leave was unforeseeable, no later than fifteen calendar days from the date the certification was requested. Failure to submit medical certification may jeopardize the employee's eligibility for an unpaid leave of absence and/or the ability to return to work. The medical certification must include:

- The date the medical condition began;
- The probable duration of the medical condition;
- Pertinent medical facts; and,
- An assertion that the employee is unable to perform the employee's essential job functions or that the employee is needed to care for a family member for a specified period of time.

Leave for the Birth, Adoption or Foster Care Placement of a Child – Leave for the birth of a child or the placement of a child for adoption or foster care must conclude within twelvemonths from the date of the birth or placement.

Certification for Adoption/Foster Care – An employee must produce proper certification from the appropriate agency for an unpaid leave for the adoption or foster care of a child.

Employment Restrictions During Leave of Absence – While on an approved leave, the employee may not be employed by another employer during the same hours that the employee was normally scheduled to work for the Town of Berne.

Benefits During a Leave of Absence – For the purpose of this policy, the following will apply:

- **Use of Accrued Paid Leave Credits** – An employee taking leave for the **birth, adoption or foster placement of a child or to care for a spouse, child or parent with a serious health condition** must first use all vacation leave credits which will be included in the maximum twelve weeks of leave. The substitution of paid leave for unpaid leave for these types of leave does not extend the twelve-week period.

For leaves taken due to the **employee's own serious health condition**, the employee must first use all sick leave and vacation leave credits, which will be included in the maximum twelve weeks of leave. However, in the event that the paid leave credits available are greater than the maximum twelve-week period, an employee may use paid leave credits to extend the leave of absence beyond the twelve-week period, **up to a maximum of one year**.

If, after the completion of the one-year leave of absence, the employee is medically unable to return to work (as determined by a health care provider) and the employee has leave credits remaining, the Town Board may authorize an extension of the employee's leave of absence until such benefits are exhausted. However, **job reinstatement** beyond the one-year leave of absence **is not automatic** and will be dependent upon job availability, in accordance with Civil Service Law Sections 71, 72 and 73, as applicable, and the *Rules for the Classified Civil Service of Albany County*.

- **Accrual of Paid Leave Credits** – An employee will continue to accrue vacation and sick leave and receive holiday pay during the portion of the leave that is paid. **Paid leave is defined as leave during which the employee continues to use accumulated paid vacation and sick leave.** After all such paid leave is exhausted the remaining leave of absence is unpaid. An employee will not earn paid vacation or sick leave or receive holiday pay for any holidays that may occur during an unpaid leave of absence.
-
- **Medical Insurance** – During the period of authorized leave under this policy, up to a maximum of twelve weeks, an employee's eligibility status for medical insurance coverage will not change. All employee contributions (if any) must be paid on a timely basis in order to maintain the continuous coverage of benefits. Contributions will be at the same level as if the employee was working. Coverage will cease if payments are not made within a thirty-calendar day grace period of the due date. Premium payments or policy coverage are subject to change. In the event the employee fails to return to work after the maximum twelve week period of leave under this policy has been exhausted, the employee may continue coverage with responsibility for payment of the full premium amount under COBRA provisions (see Section 710.) In addition, the Town may recover the premium that it paid for maintaining the coverage during any period of the unpaid leave except for the following circumstances:
 - * The continuation, recurrence, or onset of a serious health condition of the employee or the employee's eligible family member with proper medical certification; or,
 - * Circumstances beyond the employee's control, such as: parent chooses to stay home with a newborn child who has a serious health condition; employee's spouse is unexpectedly transferred to a job location more than 75 miles from the employee's worksite; the employee is laid off while on leave.

Return to Work – The following conditions for returning to work will apply:

- **Job Restoration** – At the conclusion of the leave of absence, (except for leaves beyond a one-year period) the employee, provided that the employee returns to work immediately following such leave, will be restored to the position the employee held when the leave began, or an equivalent position with equivalent benefits, pay and working conditions. For an authorized leave of absence beyond the one-year period, job restoration will be dependent upon job availability, in accordance with Civil Service Law Sections 71, 72 and 73, as applicable, and the *Rules for the Classified Civil Service of Albany County*.
- **Medical Statement** – Before resuming employment, an employee must submit a statement from the employee's health care provider indicating that the employee is able to return to work either with or without restrictions. The Town reserves the right to have the employee examined by a physician selected and paid for by the Town to determine the employee's fitness to return

to work either with or without restrictions. Failure to return to work when required may be considered a voluntary termination.

- **Early Return** – An employee who intends to return to work earlier than anticipated must notify the Department Head at least five business days prior to the date the employee is able to return. The Department Head shall in turn notify the Town Supervisor.
- **Extension of Unpaid Leave of Absence** – An employee who wants an extension of the leave previously requested must notify the employee's Department Head at least two business days from the date the change occurred which necessitates the change in leave time. The Town Board reserves the right to approve all leave extensions.

510 Unpaid Leave of Absence

General Terms - Absences taken beyond an employee's leave accruals shall be considered unauthorized unless prior written approval has been given from the Town Board. Subject to the approval of the Town Board, unpaid leaves of absence other than under the Family and Medical Leave Act may be available to an employee for personal reasons including, but not limited to, family responsibilities and education.

Request for Unpaid Leave - The employee must submit such request and the reasons for the leave, in writing, to the Town Supervisor at least thirty calendar days prior to planned commencement of the requested leave. The Town Board has sole discretion in approving such leave.

Conditions of Leave - The Town Board will specify the duration of an unpaid leave of absence and to impose such other terms, conditions and restrictions on the employee as the Town Board, in its discretion, deems appropriate.

Continuation of Benefits - An employee on an approved unpaid leave of absence may continue to be eligible for medical insurance coverage in accordance with COBRA. Disability benefits and accruals for leave benefits shall be suspended.

Return to Work - An employee returning to work from an unpaid leave must submit request to return to work, in writing, to the employee's Department Head, at least fourteen calendar days in advance. If the employee's previous job cannot be vacated upon return, the employee will be given the first open position within the bargaining unit in an equal or lower grade, provided the employee is qualified to perform the job duties.

An employee who fails to return from an unpaid leave of absence at the scheduled expiration date without giving proper notice or receiving proper authorization shall be conclusively presumed to have voluntarily resigned from employment.

Change in Status - If the reason for the unpaid leave of absence changes, the employee must reapply or return to work.

600 COMPENSATION

601 Wage and Salary

Union Employees – An employee who is a member of a collective bargaining unit is not covered by the Wage and Salary provisions set forth below and should refer to the applicable collective bargaining agreement.

Rate of Pay – An employee’s rate of pay shall be established by the Town Board.

Merit Increases – An employee may receive a pay increase based upon the employee’s past performance. Merit increases are granted at the discretion of the Town Board.

602 Overtime Time

Authorization – A Department Head may require an employee to work additional hours beyond the employee’s normal workday and workweek. An employee must receive prior approval from the employee’s Department Head before working additional hours.

FLSA Exempt Employees – In accordance with the Fair Labor Standards Act, FLSA exempt employees will not be paid for overtime nor receive “compensatory time” for any hours worked in excess of the employee’s normal workday or workweek.

FLSA Non-Exempt Employees – In accordance with the Fair Labor Standards Act, an FLSA non-exempt employee will be paid one and one-half times the employee’s regular hourly rate of pay for all authorized time worked over forty hours in a given workweek.

Credit for Paid Leave – Holidays, vacation leave, personal leave, sick leave, bereavement leave, jury duty leave will be included as time worked in the computation of overtime. All military leave will not be included as time worked in the computation of overtime.

Union Employees – An employee who is a member of a collective bargaining unit shall receive overtime compensation in accordance with the overtime provision of the applicable collective bargaining agreement and is also subject to the provisions of the FLSA.

603 Pay Period and Check Distribution

Payroll Period – Employees and elected officials are paid on a weekly, bi-weekly, monthly and semi-annually as outlined at the Town of Berne’s Organization Meeting in January.

The payroll period will begin Saturday at 12:00:01 a.m. and end on Friday at 11:59:59 p.m. An employee’s paycheck will be based on the amount earned during the preceding payroll period. Certain employees may be paid on a different schedule as may be established by the Town Board.

Payday - Under normal circumstances, paychecks will be issued on the Thursday following the end of the payroll period. In the event the payday is a designated holiday, paychecks will be distributed on the previous workday.

Direct Deposit - The Town provides a direct deposit option for employees. If elected, the paycheck will be deposited directly into the employee's account at the designated financial institution. The employee must submit a signed, written authorization for direct deposit to the Town Clerk.

Authorized Check Release - The Department Head will not release a paycheck to anyone other than the employee unless the employee has submitted a signed, written authorization with the Town Clerk.

604 Payroll Deductions

Statutory Deductions – The required portion of an employee's pay for federal and state taxes, and any other deduction required by law, will be deducted from the employee's paycheck. Such deductions will be noted on the paycheck.

Voluntary Deductions – Payroll deductions provided through the Town's payroll system will be made from an employee's paycheck when authorized by the employee. Such deductions will be noted on the paycheck.

605 Deferred Compensation Plan

Summary – The Town of Berne has established a Deferred Compensation Plan whereby a portion of an employee's salary may be voluntarily withheld and invested. The money saved is paid out to the employee at a later date, generally during retirement years. Neither the deferred amount nor earnings on investments are subject to current Federal and State Income Taxes. Taxes become payable when the deferred income plus earnings are distributed to the employee. A description of the plan may be obtained from the Town Clerk.

700 EMPLOYEE BENEFITS

701 Holidays

Designated Holidays - The following holidays will be observed on the day designated by the Town Board at its organizational meeting in January of each year:

1. New Year's Day
2. Martin Luther King Day
3. Presidents' Day
4. Memorial Day
5. Juneteenth
6. Independence Day
7. Labor Day
8. Columbus Day
9. Veterans' Day
10. Thanksgiving Day & Friday following
11. Christmas Day

Holiday Pay Eligibility - Full-time and part-time employees are eligible for paid holidays upon hire. Part-time employees are eligible for paid holidays only if the day the holiday is observed by the Town is a normally scheduled workday. A temporary or seasonal employee is not eligible to receive compensation for Town-observed holidays.

Holiday Pay - A full-time or part-time FLSA non-exempt employee who does not work on a designated holiday will be paid for the day at the employee's regular daily rate of pay, provided the employee was otherwise scheduled to work on that day. An FLSA exempt employee will receive the employee's regular salary for each holiday. A temporary or seasonal employee is not eligible for holiday pay.

Assigned to Work on a Holiday - A full-time or part-time FLSA non-exempt employee who does work on a designated holiday will be paid for all hours worked at the employee's regular rate of pay plus "holiday pay" or, with the approval of the employee's Department Head, the employee will be paid for all hours worked at the employee's regular rate of pay and schedule another mutually agreed upon day off with pay within three months following the holiday. A FLSA exempt employee will receive the employee's regular salary for the day and with the approval of the employees Department Head be allowed to schedule another mutually agreed upon day off with pay within three months following the holiday. A temporary or seasonal employee who works on a designated holiday will be paid at the employee's regular rate of pay.

Holiday Pay During Paid Leaves - In the event a designated holiday occurs on an employee's regularly scheduled workday and the employee is on a paid leave of absence, the employee will receive holiday pay for the day and the employee's leave credits will not be charged for that day.

Religious Holidays - An employee may request an unpaid leave of absence for a religious holiday, observance, or practice that is not included in the above list of Town-observed holidays. An employee also has the option of using accumulated vacation or personal leave or taking the time off without pay (FLSA exempt employees are only docked for full day absences). The request must be submitted, in writing, to the employee’s Department Head at least fourteen calendar days in advance. An employee will not be denied time off solely because it has been requested for religious reasons. Time off is generally granted so long as it does not create an undue hardship on the Town. A FLSA non-exempt employee may be allowed to make up the lost work time during the current workweek with prior approval from Department Head, if work is available and if a mutually convenient time can be agreed to by the employee and the supervisor.

Union Employees – An employee who is a member of a collective bargaining unit is not covered by the Holidays provisions set forth above and should refer to the applicable collective bargaining agreement.

702 *Vacation Leave*

Allowance - A full-time employee is eligible for paid vacation leave in accordance with the vacation schedule listed below. A part-time employee will be credited with paid vacation leave in accordance with the vacation schedule prorated by the average number of hours the employee works in a workweek, with forty hours equal to 100%.

Years of Service	Credits Per Pay Period
From date of hire	1.54 hours
After 1 year of continuous service	3.08 hours
After 2 years of continuous service	4.62 hours
After 4 years of continuous service	6.15 hours
Years of Service	Credits Per Year
After 10+ years of continuous service	40.00 hours

For example, a full-time employee who has completed two years of continuous service on February 26th will see an increase in the number of hours credited from 3.08 hours per pay period to 4.62 hours per pay period; an employee who has completed four years of continuous service on November 21st will see an increase from 4.62 hours per pay period to 6.15 hours per pay period

New Employees - A new employee may not use paid vacation leave credits until after completion of six months of continuous service.

Accrual During Leaves of Absence - An employee will be credited with vacation leave credits while on a paid leave of absence, but not while on an unpaid leave of absence, including an unpaid leave of absence due to a Workers’ Compensation claim.

Accumulation - An employee may accumulate vacation leave credits to a maximum of one hundred and sixty (160) hours. Any vacation credits in excess of one hundred and sixty (160) hours will be cancelled. However, in the event an employee is unable to take vacation leave due to no fault of the employee, the employee may “carry” the excess for an a maximum of ninety (90) calendar days at which time the excess hours will be canceled.

Scheduling - An employee must receive prior approval from the employee's Department Head to take vacation leave. The request must be submitted, in writing, to the employee's Department Head at least forty-eight hours in advance. The Department Head will have total discretion in the approval of vacation leave. Vacation leave may not be used in increments of less than one hour. An employee may take vacation leave only after it has been credited.

Termination of Employment - An employee who resigns, retires or is laid off will receive payment for unused vacation leave to which the employee is properly entitled at the employee's then current rate of pay. To be eligible to receive this payment, an employee who is to resign or retire must give written notice at least two weeks in advance of the last day of employment.

Temporary or Seasonal Employees - A temporary employee or seasonal employee is not eligible for paid vacation leave but may be allowed to take time-off without pay provided the individual has prior approval from the Department Head.

Union Employees – An employee who is a member of a collective bargaining unit is not covered by the Vacation Leave provisions set forth immediately above and should refer to the applicable collective bargaining agreement.

Questions regarding these benefits and how they relate to your job classification should be addressed to the Human Resources Department.

703 *Sick Leave*

Allowance: A full-time employee will be credited with four hours of paid sick leave each pay period.

New Employees: A newly hired full-time employee will not be credited with sick leave credits prior to completing six months of continuous employment, at which time the employee will be credited with fifty-two hours of paid sick leave.

Accrual During Leaves of Absence: An employee will be credited with sick leave credits while on a paid leave of absence, but not while on an unpaid leave of absence, including an unpaid leave of absence due to a Workers' Compensation claim.

Accumulation - An employee may accumulate paid sick leave credits to a maximum of one thousand three hundred twenty (1320) hours, as per NYSLRS. Any paid sick leave credits in excess of one thousand three hundred twenty (1320) hours will be canceled.

Use of Sick Leave - Sick leave is provided to protect an employee against financial hardship during an illness or injury. Sick leave is an insurance benefit against financial loss not a leave benefit to which the employee is automatically entitled. An employee may use

sick leave credits for personal illness or injury that inhibits the employee's work or for physician, chiropractor, osteopath or dentist appointments that cannot be scheduled during non-working hours. Sick leave credits may not be used in increments of less than one hour. An employee may take paid sick leave only after it has been credited.

Family Sick Leave - An employee may use sick leave credits for family illness or injury only if the employee must provide direct care to an immediate family member. For purposes of family sick leave, "immediate family member" will mean the employee's parent, spouse, or child, including stepchild and foster child.

Notification of Sick Leave - In the event an employee must take sick leave, the employee must notify the Department Head as soon as possible before the employee's scheduled reporting time. The notification must be made personally to the Department Head, unless the Department Head authorizes the use of an answering device for this purpose. Unless an extended sick leave absence has been authorized, the employee must notify the employee's Department Head each day of the absence. These procedures must be followed to receive paid sick leave.

Medical Verification - The Town may require medical verification of an employee's absence if the Town perceives the employee is abusing sick leave or has used an excessive amount of sick leave. The Town may require medical verification of an employee's absence to verify that the employee is able to return to work with or without restrictions.

Abuse of Sick Leave - An employee who, after investigation, is found to have demonstrated a pattern of sick leave abuse or to have used an excessive amount of sick leave will be subject to appropriate disciplinary action.

Sick Leave Credits Upon Retirement – The Town Board has elected to provide the benefit of §41(j) of the NYS Retirement and Social Security Law. This provision allows Tier 1 through 5 employees credit for up to one hundred sixty-five (165) days of accumulated sick leave, and Tier 6 employees up to one hundred (100) days of accumulated sick leave, at the time of retirement. To be eligible, an employee must retire directly from covered employment or within one year of leaving covered employment. The additional service credit is determined by dividing the total unused, unpaid sick leave days (not to exceed 165 days) by 260. For example: 130 unpaid sick leave days ÷ 260 = .50 or 6 months additional service credit.

Termination of Employment - An employee who resigns, retires, is laid off, or is involuntarily terminated from employment will not receive payment for unused sick leave credits.

Part-time, Temporary or Seasonal Employees - A part-time employee, temporary employee, or seasonal employee is not eligible for paid sick leave but may be allowed to take time-off without pay provided the individual has prior approval from the Department Head.

Union Employees – An employee who is a member of a collective bargaining unit is not covered by the Sick Leave provisions set forth immediately above, **except** for Proper Use of Sick Leave, Medical Verification, and Abuse of Sick Leave, and should refer to the applicable collective bargaining agreement.

704 *Personal Leave*

Allowance - A full-time employee will be credited with thirty-two hours of paid personal leave each year.

Date Credited - An employee will be credited on the first day of January of each year for use during that year.

New Employees - An employee who is hired after the first day of January in any given year will be credited with paid personal leave prorated by the number of months to be worked in the first calendar year of employment. For example, a full-time employee who is hired on April 1st will be credited with twenty-four hours of paid personal leave; an employee who is hired on October 1st will be credited with eight hours of paid personal leave. Thereafter, the employee will be credited on the first day of January for use during that year.

Accumulation - An employee may not accumulate personal leave credits. Any personal leave credits remaining unused at close of business on the last day of the calendar year will be canceled.

Use of Personal Leave - An employee may use personal leave credits to conduct personal business that cannot be conducted outside of normal working hours and for personal emergencies. In no event may personal leave credits be used on the scheduled workday immediately prior to or following a holiday or vacation. Personal leave credits may not be used in increments of less than one hour. An employee may take personal leave only after it has been credited.

Scheduling - An employee must receive prior approval from the employee's Department Head to take personal leave. The request must be submitted, in writing, to the employee's Department Head at least twenty-four hours in advance. In the event there is an unforeseen emergency, the requirement for advance notice will be waived. The Department Head will have total discretion in the approval of personal leave.

Termination of Employment - An employee who resigns, retires, is laid off, or is involuntarily terminated will not receive payment for unused personal leave.

Part-Time, Temporary or Seasonal Employees: A part-time employee, temporary employee, or seasonal employee is not eligible for paid personal leave but may be allowed to take time-off without pay provided the individual has prior approval from the Department Head.

Union Employees – An employee who is a member of a collective bargaining unit is not covered by the Personal Leave provisions set forth immediately above, **except** for Proper Use of Personal Leave and Scheduling, and should refer to the applicable collective bargaining agreement.

705 *Disclosure of Insurance Benefits*

Summary – The following is a brief description of the insurance benefits currently offered by the Town to eligible employees. Eligibility for benefits is dependent upon a variety of factors, including employment classification and length of service. The description of the benefits provided is only an overview. The plan documents or specific government regulation provide a full description of the specific benefit.

Plan Administrator – The Town Clerk serves as the Administrator of the Town’s benefits plans. The Administrator is responsible for all communications and disclosures concerning Town benefits and is available to answer questions concerning the benefit plans. A description of each of the plans may be obtained from the Town Clerk.

Plan Documents – Benefits are administered according to applicable government regulation, benefit plan documents, insurance carrier master policy, or Town policy. Should there be a discrepancy between the information presented in this Employee Handbook and the benefit plan document, the Town Board has the discretionary authority to determine eligibility for benefits and to interpret the plan’s terms. The Town Board is responsible for compliance with all applicable laws and regulations. The Town Supervisor may, at his/her discretion, change carriers and/or offer alternative insurance plans for non-union employees. Changes in carriers and/or plans for union employees shall be in accordance with collective bargaining negotiations and/or procedures.

Changes in Benefits – Any benefit offered by the Town to non-union employees or Elected Officials is subject to change or discontinuance by the Town Supervisor. Changes in benefits for union employees shall be in accordance with collective bargaining negotiations and/or procedures.

Waiver of Benefits – An employee who is eligible to participate in any of the available insurance plans but who elects not to participate must sign an appropriate waiver of enrollment form.

Enrollment Information – The Town Clerk will provide the employee with the enrollment forms and assist with the administrative and operational aspects of the various insurance plans. Enrollment in a benefit plan is not automatic. Employees must complete the appropriate enrollment forms and applicable payroll deduction authorizations in order to receive benefits.

Changes in Status – Employees whose status changes from full-time to part-time are notified of the changes to their Town benefits. This notification contains all legally

mandated information regarding applicable benefits, including COBRA health insurance continuation. An employee must immediately notify the Town Clerk in the event that the employee has a change in marital or family status that may affect coverage, such as marriage, divorce, legal separation, death of a spouse or dependent, acquiring or losing a dependent, changes in address.

Beneficiary – Under some of the Town’s benefit plans, each employee must designate a beneficiary for the employee’s death benefits. This designation must be made in writing and on the form provided by the plan Administrator.

706 *Medical Insurance*

Coverage - The Town offers medical insurance and prescription drug plan to each eligible full-time elected officials, employee and the employee’s eligible family members. The Town offers medical insurance to the Town Clerk and the Superintendent of Highways and each of those Elected Officials eligible family members. In no event shall the Town be required or obligated to pay or reimburse any portion of any doctor’s bill, hospital bill, prescription bill, x- ray bill, laboratory bill, procedure bill, or any other medical bill or expense that is not covered or reimbursed by the insurance plan.

Date Coverage Begins – Eligible full-time employees and Elected Officials may participate in the medical insurance plan on the day of employment provided all eligibility requirements of the plan are met and the requisite forms have been completed. Eligible employees and Elected Officials may also enroll in the medical insurance plan during the annual open enrollment period or at the time of a qualified change in employment or family status, as defined by the Internal Revenue Service (IRS) and the insurance carrier.

Change in Insurance Plans - The Town Supervisor may change the insurance carrier and/or offer alternative plans in place of the current plan.

For an eligible full-time employee who chooses a single plan, the Town will pay 100% of coverage; then 85% of the full premium of the medical insurance plan for other plans; and the employee will pay the remaining fifteen percent.

The employee’s contribution to the medical insurance premium will be deducted from the employee’s regular paycheck. The employee may elect to have such deduction made on a pre-tax basis in accordance with Section 125 of the Internal Revenue Code.

Changes in Premium Contributions – The amount of the insurance premium an employee or Elected Official is required to contribute is subject to change by resolution of the Town Board. The Town Board will provide a two-month written notice of such change.

Union Employees – An employee who is a member of a collective bargaining unit is not covered by the Medical Insurance provisions set forth immediately above and should refer

to the applicable collective bargaining agreement.

707 ***Medical Insurance Buy-out***

Eligibility – A full-time employee, the Town Clerk, or the Superintendent of Highways who is eligible for medical insurance coverage made available through the Town may receive a cash buy-out in lieu of receiving medical insurance benefits. To be eligible for the medical insurance buy-out, the employee must provide documentation of comparable medical insurance coverage in a manner and form to be determined by the Town and sign an appropriate waiver of medical insurance coverage and waiver of liability to the Town.

Amount of Buy-Out – If the employee, the Town Clerk, or the Superintendent of Highway's is eligible for individual coverage, the employee will receive an amount equivalent to the sum of twenty-five percent of the Town's contribution and the high deductible medical insurance plan and the Town's annual premium contribution for individual coverage. If the employee, the Town Clerk, or the Superintendent of Highways is eligible for family coverage, the employee will receive an amount equivalent to twenty-five percent of the Town's contribution to the high deductible medical insurance plan and the Town's annual premium contribution for family coverage.

Method of Payment – As determined at the Town of Berne's Organizational Meeting in January, partial payment of the buy-out (1/26th of the annual premium) will be made in the employee's regular biweekly paycheck for each pay-period the employee is eligible for the buy-out. For employee's who are paid on a monthly basis, partial payments will be made each month.

Reinstatement – In the event the employee, the Town Clerk, or the Superintendent of Highways loses coverage under the alternate insurance plan, the employee may resume coverage under one of the medical insurance plans made available through the Town. Coverage will begin on the first of the month immediately following the employee giving notice, provided the employee gives such notice at least five business days prior to the first of the month and meets all eligibility requirements of the insurance plan.

Changes – This policy may be changed or eliminated at any time by resolution of the Town Board.

Union Employees – An employee who is a member of a collective bargaining unit is not covered by the Medical Insurance Buy-out provisions set forth immediately above and should refer to the applicable collective bargaining agreement.

708 *Medical Insurance for Retirees*

Coverage – The Town offers medical insurance and prescription drug coverage to the Town Clerk, the Superintendent of Highways, and full-time Elected Officials and employees who are not members of a collective bargaining unit after such elected official or employee retires from Town employment and is receiving retirement benefits from one of the New York State retirement systems. Notwithstanding the above, an elected official who is removed from office in accordance with Public Officers Law or an employee who leaves employment due to disciplinary action is not eligible for medical insurance or prescription drug coverage for retirees.

Coverage (retiree's spouse) – The retiree's eligible spouse may participate in the medical insurance and prescription drug plan provided the spouse was covered under the Town's medical insurance plan on the retiree's last date of employment with the Town. The Town will not contribute toward the cost of the spouse's insurance. In the event the retiree predeceases the retiree's eligible spouse, the spouse may continue to participate in the medical insurance and prescription drug plan provided the spouse pays the full cost of the premiums. In the event of legal separation or divorce, the retiree's spouse shall not be eligible for coverage except as provided under COBRA.

Insurance Plan – The Town Supervisor may, at any time and at its sole discretion, change the medical insurance and/or prescription drug plan, including, but not limited to plan carrier; plan design; co-payments and deductibles; and, eligibility.

Coverage under the medical insurance and prescription drug plan made available through the Town will continue until the retiree meets the eligibility criteria for Medicare coverage, at which time primary coverage will be provided by Medicare. At that time, the retiree may be required to change the medical insurance and prescription drug plans in order to enroll in a Medicare supplemental policy. The Town will not reimburse a retiree for the cost of the Medicare Part B premium.

Eligibility – For an eligible elected official or an employee who is not a member of a collective bargaining unit to be eligible for coverage upon retirement, the retiree must meet all of these requirements: 1) have at least twenty years of cumulative full-time employment with the Town; 2) be at least fifty-five years of age; and, 3) have been granted a retirement benefit from one of the New York State retirement systems.

Payment of Premium – For an eligible elected official who was elected on or before February 1, 1998, or an employee who is not a member of a collective bargaining unit the Town will pay the full premium of the medical insurance and prescription drug plan for individual coverage.

If a retiree moves to an area not serviced by the Town's medical insurance provider, the Town will make an equivalent monetary payment towards the cost of the outside provider and Medicare not to exceed cost of the Town's current plan.

Notwithstanding the above, the Town Board may, at any time and at its sole discretion, change the amount a retiree is required to contribute toward the cost of the medical insurance premium and/or prescription drug plan premium.

Union Employees – An employee who is a member of a collective bargaining unit is not covered by the Medical Insurance for Retirees provisions set forth immediately above and should refer to the applicable collective bargaining agreement.

709 *Vision Plan*

Coverage: The Town offers a vision plan for each eligible full-time employee and the employee's eligible family. Coverage will begin on the employee's first day of employment, provided the employee meets all eligibility requirements of the plan and has completed the application prior to the first day of employment. In no event shall the Town be required or obligated to pay or reimburse an employee or the employee's spouse or other dependent for any portion of any bill or expense that is not covered or reimbursed by the vision plan.

Change in Vision Plan: The Town may change the carrier and/or offer an alternative plan in place of the current plan, provided the alternative plan's benefit structure is substantially equivalent to the current plan.

Premium Payment: The Town will pay the full premium for individual or family coverage, as the case may be, for each eligible employee.

Union-Represented Employees - An employee who is a member of a collective bargaining unit is not covered by or eligible for the Vision Plan provisions set forth immediately above and should refer to the collective bargaining agreement on the subject of vision plan.

710 *Continuation of Health Insurance Benefits (COBRA/NYS Continuation Coverage)*

Summary – The federal Consolidated Omnibus Budget Reconciliation Act of 1985(COBRA) offers “qualified beneficiaries” the right to continue existing health insurance coverage, completely at their own expense, under certain qualifying conditions. **All required premiums and administrative fees must be paid in a timely manner in order for coverage to continue.**

NYS Continuation Coverage – For purposes of this policy, references to COBRA will be considered to incorporate the requirements for “Continuation Coverage” set forth in NYS Insurance Law, which provides enhancements over and above the provisions of COBRA.

Eligibility – An individual is a “qualified beneficiary” if the individual is covered under a group health plan on the day before a qualifying event as either a covered employee or Elected Official, the spouse of a covered employee or Elected Official, or a dependent child

of a covered employee or Elected Official. A child who is either born to or who is placed for adoption with the covered employee or Elected Official during a period of COBRA coverage is also a “qualified beneficiary” entitled to COBRA coverage.

Period of Coverage – COBRA coverage is in effect for a period of **up to thirty-six months**, following any qualifying event. The COBRA requirements do not put any limit on the number of times a qualified beneficiary may be entitled to COBRA continuation coverage.

Qualifying Events – If a qualified beneficiary loses coverage under a group health plan as a result of a “qualifying event,” the qualified beneficiary is entitled by COBRA to the continuation of group health insurance coverage at the qualified beneficiary’s own expense. Any of the following circumstances are considered to be qualifying events:

- Termination of the covered employee’s (or Elected Official’s) employment for any reason except gross misconduct, or the covered employee's loss of eligibility to participate due to reduced work hours.
- When a covered employee is on a leave of absence due to military service obligations.
- Death of a covered employee or Elected Official.
- Divorce or legal separation from a covered employee or Elected Official.
- A covered dependent ceases to be a "dependent child" under the health insurance plan.
- A covered dependent child's loss of eligibility to participate in the insurance plan due to the covered employee or Elected Official becoming covered by Medicare as a result of total disability or choosing Medicare in place of the insurance plan at age sixty-five.

Change in Beneficiary Status – An employee or Elected Official must notify the Town Clerk within sixty calendar days of a legal separation or divorce or when a dependent is no longer eligible for insurance due to the age limitations or educational status requirements established by the insurance plan. The Town will not be responsible for any loss of coverage resulting from failure by the employee or Elected Official to give notification of such an event.

Enrollment Information – The Town Clerk will provide the employee or Elected Official with the enrollment forms and assist with the administrative and operational aspects of COBRA. **Enrollment is not automatic. The employee or Elected Official must complete the necessary enrollment forms and return all COBRA forms to the Town Clerk within the time indicated.** If the required forms or premium payments are not received at the time specified, medical insurance coverage will cease.

711 *Section 125 Plan*

Summary – The Town of Berne offers eligible employees the opportunity to participate in a Town-sponsored Section 125 plan. The benefit of participating in the Section 125 plan is that an employee's contributions to the plan are deducted from the employee's paycheck before federal, state, and social security taxes are calculated. This reduces the employee's taxable income and increases net take-home pay. The options offered under this plan are shown below.

Eligibility – A full-time employee or Elected Official is eligible to participate in this plan. A part-time, temporary or seasonal employee may not participate in this plan.

Pre-Tax Insurance Premiums – An employee may elect to pay the employee portion of the medical insurance premiums with pre-tax dollars.

Flexible Spending Accounts – An employee may elect to have a pre-determined amount deducted from the employee's paycheck on a pre-tax basis each payroll period to be placed in a medical and/or dependent care flexible spending account (FSA). Money set aside in an employee's medical savings account may be used to cover certain health, dental, and vision care expenses that are not reimbursable through the employee's insurance plan(s). Money set aside in an employee's dependent care savings account may be used to cover eligible day care and nursery school expenses for covered dependents. To receive reimbursement from an employee's FSA account, a claim for reimbursement and proof that the expense was incurred must be submitted to the Town Clerk. Further details regarding this plan may be obtained from the Town Clerk.

712 *Short-Term Disability Benefits*

Eligibility – A full-time employee is currently provided with short-term disability coverage in accordance with this policy. A part-time, temporary, or seasonal employee is not eligible for paid short-term disability coverage and may purchase their own plan through AFLAC, etc. This benefit is to supplement loss of time from work due to a qualified non-job-related illness or injury.

Summary – The Town currently offers a short-term disability plan for non-job-related injuries or illnesses that meets the minimum requirements of New York State Disability Insurance. The insurance company makes the determination of whether an employee is eligible for short-term disability benefits. Disability payments will be in accordance with the terms of the policy. The duration of disability benefits is dependent upon a physician's certification and consistent with the terms of the policy. Benefits may continue up to a maximum of twenty-six weeks. An employee generally receives 50% of the employee's average weekly wages based on the previous eight weeks of employment, up to a maximum of \$170 per week. There is no coverage for medical care.

Waiting Period – There is a 7-day waiting period for which no benefits are paid. Benefits start on the eighth consecutive day of disability.

When Coverage Begins – Coverage will begin on the employee’s first day of employment, provided the employee meets all eligibility requirements.

Disability Payments – Disability payments will be in accordance with the terms of the policy. The duration of disability benefits is dependent upon a physician’s certification and consistent with the terms of the policy. There may be a waiting period before an employee can become eligible for disability payments. Full details regarding the policy currently in effect are available from Town Clerk.

Premium Payment – The Town will pay the full premium for short-term disability coverage for each eligible employee.

Reporting of Illness or Injury – The employee must submit a written report of the illness or injury on the proper application form to the employee’s Department Head and the Town Clerk as soon as possible upon becoming aware of the need to apply for short-term disability benefits. The Town Clerk will provide the employee with the necessary forms. Proper medical certification will be required and must be submitted with the application form.

Use of Sick Leave Credits – An employee may draw from the employee’s sick leave credits in conjunction with disability payments to equal, but not exceed, the employee’s regular daily rate of pay.

Medical Insurance Coverage – The Town will continue medical insurance coverage for the employee in accordance with the provisions of the Family and Medical Leave Policy in this Employee Handbook.

Union Employees – An employee who is a member of a collective bargaining unit is not covered by the Short-Term Disability Benefits provision set forth immediately above and should refer to the applicable collective bargaining agreement.

713 *Workers' Compensation Benefits*

Coverage – The Town will make available Workers’ Compensation benefits, including payment of medical costs and replacement of lost wages up to the regulated maximum, to each eligible employee who suffers an accidental injury arising out of and in the course of employment, as determined by the Workers’ Compensation Board. Eligibility for coverage is determined by applicable Workers’ Compensation regulations.

When Coverage Begins – Coverage will begin on the employee’s first day of employment, provided the employee meets all eligibility requirements.

Premium Payment – The Town will pay the full premium for Workers’ Compensation coverage for each eligible employee.

Reporting of Injury – The employee must report any accidental injury arising out of and in

the course of employment to the Department Head immediately after the occurrence of the injury. The Department Head will notify the Town Clerk who will complete and submit the required forms. The employee must also complete an “Employee Claim Form C-3” and submit it directly to the Workers’ Compensation Board. The Town Clerk will provide the employee with the necessary form.

Use of Sick Leave Credits – An employee may draw from the employee’s sick leave credits in conjunction with Workers’ Compensation payments to equal, but not exceed, the employee’s regular daily rate of pay.

Medical Insurance Coverage – The Town will continue medical insurance coverage for the employee in accordance with the provisions of the Family and Medical Leave Policy in this Employee Handbook.

Union Employees – An employee who is a member of a collective bargaining unit is not covered by the Use of Sick Leave Credits provision set forth immediately above and should refer to the applicable collective bargaining agreement.

714 *Social Security*

Summary – Social Security benefits are available for retirement, survivor's benefits, and medical costs under qualifying conditions, as determined by the Federal Social Security Administration Office. Employee contributions to Social Security (FICA) are matched by the Town.

715 *The New York State Employees’ Retirement System*

Summary – The Town will make available the New York State Employees’ Retirement System pension plan to each eligible employee and Elected Official. An employee or elected official is eligible for service retirement benefits as per the eligibility rules of the employee’s Tier as assigned by the NYS Retirement System.

Mandatory Membership – A full-time employee who began employment with the State of New York or with a participating employer, on or after July 27, 1976, must join the Retirement System. An employee who is appointed to a permanent, full-time position on a probationary basis must join the Retirement System on the effective date of the probationary appointment. Employment is considered full-time unless:

- The employee works less than thirty hours per week, or less than the standard number of hours for full-time employment as established by the employer for this position; or
- The annual compensation for the position is less than the State's minimum wage multiplied by 2,000 hours; or
- Duration of employment is for less than one year or employment is on a less than a 12 month per year basis; or

- The position is either provisional or temporary under Civil Service Law.

Optional Membership – An employee or Elected Official who is not mandated to join may join the Retirement System. Such employee or Elected Official will be informed, in writing, that the employee or Elected Official may join the Retirement System and will acknowledge receipt of such notice by signing a copy thereof and returning it to the Town Clerk. If the employee or Elected Official elects to join the Retirement System, the employee or Elected Official must complete the application form and return it to the Town Clerk.

Waiver of Enrollment – An employee who is not mandated to join the Retirement System, and who chooses not to join, must complete a waiver of enrollment form.

800 COMPLIANCE POLICIES

801 *Equal Employment Opportunity*

Policy Statement – The Town of Berne is an Equal Opportunity Employer. The Town does not unlawfully discriminate on the basis of race, religion, color, sex, age, national origin, citizenship, disability, marital status, pregnancy, application to or present membership in the uniformed services, veteran status, arrest or conviction record, genetic information, genetic predisposition or carrier status, sexual orientation, domestic violence victim status, or any other protected class or status. Likewise, the Town prohibits employees, Elected Officials, vendors, suppliers, visitors, customers, and any other non-employee from discriminating against Town employees based on these protected groups. Discrimination based on any of the above is strictly prohibited. This policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, compensation, promotion, transfer, training, leave of absence, and termination.

Notification of Policy Violations – An employee should immediately report any perceived violation of this policy to the employee’s Department Head. In the event the employee is unable to discuss this matter with the Department Head, the complaint should be reported in writing to the Town Supervisor or any member of the Town Board. All complaints of discrimination will be investigated discreetly and promptly. This procedure is not intended to restrict an individual’s rights to make a complaint to a federal or state agency. An employee who reports discrimination will not suffer adverse employment consequences as a result of making the complaint.

Prohibition Against Retaliation – Retaliation against any employee who brings a written or verbal complaint of discrimination or who assists or participates in the investigation of such a complaint is strictly prohibited. The Town will not tolerate or permit adverse treatment of employees because they report discrimination or provide information related to such complaints, or who otherwise oppose an unlawful employment practice. Any employee who participates in the procedure may do so without fear of retaliation. Violations of this policy may result in disciplinary action up to and including termination of employment.

Application of Policy – This policy is for Town use only and does not apply in any criminal or civil proceeding. This policy shall not be construed as a creation of higher legal standard of safety or care in an evidential sense with respect to third party claims. Violations of this policy will only form the basis for Town administrative action. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

Policy Statement – It is the policy of the Town of Berne to comply fully with the provisions and spirit of the Americans with Disabilities Act and ensure equal employment opportunity for all qualified persons with disabilities. All employment practices, such as recruitment, hiring, promotion, demotion, layoff and return from layoff, compensation, job assignments, job classifications, paid or unpaid leave, fringe benefits, training, employer-sponsored activities, including recreational or social programs, will be conducted so as not to discriminate unlawfully against persons with disabilities. This also extends to prohibit unlawful discrimination based on a person’s relationship or association with a disabled individual. Qualified individuals with disabilities are entitled to equal pay and other forms of compensation (or changes in compensation) along with work assignments, classifications, seniority, leave, and all other forms of employment compensation or advantage.

Reasonable Accommodation – Reasonable accommodation is available to all qualified employees and applicants with disabilities, unless it imposes an undue hardship on the Town and/or operations of a program. The Human Resource Coordinator or Town Supervisor may require medical documentation or other information necessary to verify the existence of the disability and the need for accommodation. Following receipt of an accommodation request, the Town will meet with the requestor to discuss and identify the precise limitations resulting from the disability and the potential accommodation(s) that the Town might make to help overcome those limitations.

The Town will determine the feasibility of the requested accommodation considering various factors, including, but not limited to the nature and cost of the accommodations(s), and the accommodation’s impact on Town operations.

Pre-Employment Inquiries – Pre-employment inquiries are made only regarding an applicant’s ability to perform the duties of the position and not any disabling condition. Pre-employment physical exams will only be requested when in compliance with the law. The Town of Berne intends to base employment decisions on principles of equal employment opportunity and nondiscrimination, as defined by law.

Notification of Policy Violations – An employee should immediately report any perceived violation of this policy to the employee’s Department Head. In the event the employee is unable to discuss this matter with the Department Head, the complaint should be reported in writing to the Town Supervisor or any member of the Town Board. All complaints of possible violations will be investigated discreetly and promptly. An employee who reports a possible violation will not suffer adverse employment consequences as a result of making the complaint. This procedure is not intended to restrict an individual’s rights to make a complaint to a federal or state agency.

Application of Policy – This policy is for Town use only and does not apply in any criminal or civil proceeding. This policy shall not be construed as a creation of higher legal standard of safety or care in an evidential sense with respect to third party claims. Violations of this policy will only form the basis for Town administrative action. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

803 *Non-Discrimination and Harassment (Including Sexual Harassment) in the Workplace*

Policy Statement – It is the policy of the Town of Berne to promote a productive work environment and to prohibit conduct by any Elected Official or employee (as defined in Section 103 of the Employee Handbook) that disrupts or interferes with another’s work performance or that creates an intimidating, offensive, or hostile work environment. In keeping with this goal, the Town is committed to educate Elected Officials and employees in the recognition and prevention of workplace discrimination and harassment, including sexual harassment, and to provide an effective means of eliminating such discrimination and harassment from the workplace. In short, the Town does not tolerate any form of discrimination or harassment, including sexual harassment, and will take all steps necessary to prevent and stop the occurrence of such activity in the workplace. The accompanying complaint procedure is intended to provide an effective mechanism for reporting, and resolving promptly, complaints of discrimination and harassment, including sexual harassment, without any risk of repercussion to any individual covered by this policy who, in good faith, files such complaint.

Applicability of Policy – This policy applies to all Elected Officials, appointed members of boards and Commissions, employees, supervisors, and Department Heads, whether employed full or part-time, temporary or seasonal, paid or unpaid interns, volunteers, independent contractors, subcontractors, vendors, consultants or anyone providing services in the workplace. Depending on the extent of the Town’s exercise of control, this policy may be applied to the conduct of non-Town employees with respect to harassment of Town employees in the workplace.

Prohibited harassment (including sexual harassment) is not limited to the physical workplace itself. It can occur while Elected Officials, employees or other individuals covered by this policy are traveling for Town business or at Town sponsored events or parties. Calls, texts, emails, and social media usage by employees or other individuals covered by this policy can constitute workplace harassment, even if they occur away from the workplace premises, on personal devices, or during non-work hours.

Prohibited Activity – No Elected Official, employee or other individuals covered by this policy shall engage in any of the following:

- **Harassment:** Unwanted, unreasonable verbal or physical conduct directed toward or affecting another person that disturbs, frightens, insults, threatens, intimidates, demeans, or offends that other person, that continues or is repeated after a request to cease, and that: 1) has the purpose or effect of creating an intimidating, hostile, or offensive work environment; 2) has the purpose or effect of unreasonably interfering with an individual’s work performance; or 3) otherwise adversely affects an individual’s employment opportunities. Harassment includes offensive or inappropriate images or written materials or electronic communications (e.g., letters, e-mail, text messages, or graffiti) as well as bias-based harassment and sexual harassment (see below).
- **Bias-Based Harassment:** Harassment that denigrates, offends or shows hostility or aversion toward an individual on the basis of sex, (including gender identity or expression and the status of being transgender), sexual orientation, race, color, national origin, religion, disability,

pregnancy, age, marital status, veteran status, military status, arrest or conviction record, genetic information or predisposing characteristics, domestic violence victim status, or any other protected status. Bias-based harassment includes, but is not limited to: epithets, slurs or negative stereotyping; threatening, intimidating, or hostile acts; denigrating jokes; and written, electronic, or graphic material that denigrates, ridicules, objectifies, or shows hostility, aversion or contempt toward an individual or group and that is placed on walls, bulletin boards, lockers or elsewhere on or in the Town's premises, vehicles, or equipment, or is circulated in the workplace, including through electronic means.

Discrimination: The Town of Berne is an Equal Opportunity Employer. The Town does not unlawfully discriminate on the basis of sex, (including gender identity or expression and the status of being transgender), sexual orientation, race, color, national origin, religion, disability, pregnancy, age, marital status, veteran status, military status, arrest or conviction record, genetic information or predisposing characteristics, domestic violence victim status, or any other protected status. Unlawful discrimination based on membership in these categories is prohibited by applicable federal, state, or local laws. This policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, assignments, compensation, promotion, transfer, training, leave of absence, and termination.

Definition of Sexual Harassment – This policy places special attention on the prohibition of sexual harassment in the workplace.

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment need not be severe or pervasive to be unlawful, and can be any harassing conduct that consists of more than petty slights or trivial inconveniences. Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, or which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called “quid pro quo” harassment.

Any employee or other individual covered by this policy who feels harassed should report such behavior so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

Examples of Sexual Harassment – The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee’s body or poking another employee’s body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.

- Unwanted sexual advances or propositions, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning the target’s job performance evaluation, a promotion or other job benefits or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities.

- Sexually oriented gestures, noises, remarks or jokes, or comments about a person’s sexuality or sexual experience, which create a hostile work environment.

- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.

- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cellphones and sharing such displays while in the workplace.

- Hostile actions taken against an individual because of that individual’s sex, sexual orientation, gender identity or expression and the status of being transgender, such as:
 - Interfering with, destroying or damaging a person’s workstation, tools or equipment, or otherwise interfering with the individual’s ability to perform the job;
 - Sabotaging an individual’s work;
 - Bullying, yelling, name-calling.

Prohibition Against Retaliation – Unlawful retaliation can be any action that could discourage an employee or other individual covered under this policy from coming forward to make or support a claim of discrimination or harassment, including sexual harassment. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Unlawful retaliation against any employee or other individual covered under this policy who has engaged in “protected activity” is strictly prohibited by this policy as well as (where applicable) federal, state, and local law. Protected activity occurs when a person has:

- made a complaint of harassment or discrimination, either internally or with any anti-discrimination agency;
- opposed harassment or discrimination by making a verbal or informal complaint to management, or by simply informing a supervisor or management of harassment or discrimination;
- reported that another employee has been subjected to harassment or discrimination;
- encouraged a fellow employee to report harassment or discrimination;
- participated in a workplace investigation regarding harassment or discrimination;
- testified or assisted in a proceeding involving harassment or discrimination under the Human Rights Law or other anti-discrimination laws.

Even if the alleged discrimination or harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of discrimination or harassment.

Reporting of Discrimination and Harassment (including Sexual Harassment) –Reports of alleged discrimination and/or harassment (including sexual harassment) or retaliation may be made verbally or in writing. A form for the submission of a written complaint is attached to this policy and individuals are encouraged to use this form. If an individual chooses to submit a verbal complaint, such complaint will be recorded by the receiver of this complaint on this form. Employees are encouraged to report incidents of discrimination, harassment (including sexual harassment), or retaliation to their Department Head and/or the Town Supervisor as soon as possible after their occurrence. If the employee’s Department Head is believed to be involved in the incident, or if the employee is not comfortable in addressing the incident with the Department Head, the report should be made directly to the Town Supervisor. If the Town Supervisor is believed to be involved in the incident or the employee is not comfortable reporting the incident to the Town Supervisor, the employee should report the incident to a member of the Town Board. Employees who believe they have been discriminated against or harassed and would like to obtain guidance as to how to proceed in filing a complaint, should contact their immediate supervisor, their Department Head, the Town Supervisor, or any member of the Town Board. Employees who work during off-hours are encouraged to contact their supervisor, their Department Head, the Town Supervisor, or any member of the Town Board at home if these individuals do not work during the employee’s shift. Non-employees are encouraged to report incidents of alleged discrimination and harassment (including sexual harassment) to either the Department Head of the department where services are being provided, the Town Supervisor, or a member of the Town Board.

Supervisory Responsibility – Supervisory personnel must make every effort to ensure a work environment that is free from discrimination and harassment, including sexual harassment. Any Department Head or supervisor who receives a complaint or information about suspected prohibited activity (as outlined above), observes behavior that may constitute prohibited activity, or for any reason suspects that prohibited activity is occurring, is required to report such suspected prohibited activity to the Town Supervisor, or any member of the Town Board.

In addition to being subject to corrective action or discipline if they engaged in prohibited activity themselves, supervisory personnel will be subject to discipline for failing to report suspected prohibited activity or otherwise knowingly allowing prohibited activity to continue. Supervisory personnel will also be subject to corrective action or discipline for engaging in any form of retaliation prohibited by this policy.

Investigation of Complaint – The Town Supervisor, in consultation with the Town Board, will determine the appropriate individual(s) to conduct the investigation. All complaints pursuant to this policy, whether reported in verbal or written form, will be investigated promptly, thoroughly, and in as impartial a manner as possible. The investigation will normally include conferring with the parties involved and any named or apparent witnesses. All employees are required to cooperate in an investigation, if so directed. All persons involved, including complainants, witnesses and alleged perpetrators will be accorded due process to protect their rights to a fair and impartial investigation. All relevant materials, including all electronic communications, documents, emails or phone records that are relevant to the allegations will also be considered. A written report will be prepared documenting the results of the investigation. The individual who reported the complaint and the individual about whom the complaint was made will be notified of the final determination.

Confidentiality – Complaints of discrimination and harassment, including sexual harassment, will be handled and investigated promptly and in a manner that is as impartial and confidential as possible. In no event will information concerning a complaint be released by the Town to third parties or to anyone within the Town employment who is not directly involved in the investigation or handling of the complaint unless otherwise required by law.

Corrective Action and Discipline – Any employee who is found to have violated any aspect of this policy will be subject to corrective or disciplinary action, up to and including termination of employment, as provided by Town operating procedures, including Civil Service Law Section 75. Any Elected Official who violates this policy will be subject to remedial action as provided for and/or allowed under NYS Public Officers Law, as well as any other applicable statutes. Any vendor, supplier, visitor, customer, or other non-employee who violates this policy will be subject to remedial action, to the extent that the Town is empowered to take such action.

Legal Protections and External Remedies – Nothing in this policy should be construed as in any way limiting employees' rights to file a formal complaint with the appropriate state or federal agencies responsible for administering anti-discrimination laws. Complainants should be aware that time restrictions may apply and need to be considered. Aside from the

Town's internal process, employees may also choose to pursue legal remedies with the following governmental entities at any time.

New York State Division of Human Rights (DHR)

The Human Rights Law (HRL) applies to employers in New York State with regard to harassment and protects employees and non-employees regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with DHR or in New York State Supreme Court. Complaints with DHR may be filed any time within three years of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged discrimination. An individual may not file with DHR if they have already filed an HRL complaint in state court. Filing an internal complaint with the Town does not extend the time limits to file with DHR or in court. The three years is counted from date of the most recent incident of harassment. An attorney is not needed to file a complaint with DHR, and there is no cost to file with DHR. DHR will investigate the complaint and determine whether there is probable cause to believe that discrimination has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination is found after a hearing, DHR has the power to award relief, which varies but may include requiring the Town to take action to stop the harassment, or redress the damage caused, including paying monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, (718) 741-8400. Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

United States Equal Employment Opportunity Commission (EEOC)

The EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 Federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court. The EEOC does not hold hearings or award relief but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. If an employee believes that he/she has been discriminated against at work, he/she can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (1-800-669-6820 (TTY)), visiting their website at www.eeoc.gov or via email at info@eeoc.gov. If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.

Contact the Local Police Department

If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the County Sheriff's Department or the New York State Police.

TOWN OF BERNE

COMPLAINT

FORM

DISCRIMINATION AND HARASSMENT (INCLUDING SEXUAL HARASSMENT)

This form is to be used to document any complaint of alleged discrimination and/or harassment, including sexual harassment, as outlined in the policy. Once you complete this form, please submit it to the appropriate individual as outlined in the policy. If you are more comfortable reporting the allegations verbally or in another manner, refer to your policy for guidance. Once you submit this complaint, the Town will commence an investigation pursuant to its policy.

Name of Complainant:	Department:
Name(s) of individual engaging in alleged discrimination and/or harassment including sexual harassment:	Department:
Describe the specific incident of discrimination and/or harassment alleged. Describe each incident separately, including dates, times and locations. If you cannot remember exact dates, times or locations, provide approximations. Use additional pages if necessary.	

Are there others who may have witnessed this alleged discrimination and/or harassment? If so, provide their name(s).

Are there others who may have experienced similar alleged discrimination and/or harassment by the individual named above? If so, provide their name(s).

Did you tell anyone about your experience after the alleged incident(s)? If yes, provide their name(s).

Did you speak to the individual named in this report about the alleged discrimination and/or harassment? If yes, what was his or her response?

Complainant Signature*: _____

Date: _____

Print Name: _____

Job Title: _____

*I understand that the Town of Berne prohibits any individual from retaliating against me for filing a complaint and that I am to report such retaliation pursuant to the Town's policy.

Signature of Person Receiving Complaint: _____

Date: _____

Print Name: _____

Job Title: _____

804 *Reproductive Health Decision Making*

Policy Statement – The Town of Berne complies with NYS Labor Law Section 203-e which prohibits discrimination or retaliation against employees based on an "employee's or a dependent's reproductive health decision making," including, but not limited to, the decision to use or access a particular drug, device, or medical service related to reproductive health.

Prohibited Conduct – The Town will not:

- Access an employee's personal information regarding the employee's or the employee's dependent's reproductive health decision making, including but not limited to the decision to use or access a particular drug, device or medical service, without the employee's prior informed affirmative written consent.
- Discriminate or retaliate against an employee with respect to compensation, terms, conditions or privileges of employment based on the employee's or the employee's dependent's reproductive health decision making, including but not limited to a decision to use or access a particular drug, device or medical service.
- Require an employee to sign a waiver or other document that denies the employee right to make the employee's own reproductive health care decisions.

Employee Rights and Remedies – The law gives an employee the right to bring a civil action in any court of competent jurisdiction against an employer alleged to have violated the law. Available remedies include: (a) damages, including, but not limited to, back pay, benefits and reasonable attorneys' fees and costs; (b) injunctive relief; (c) reinstatement; and (d) liquidated damages equal to 100 percent of the award for damages, unless an employer provides a good faith basis to believe that its alleged violations were in compliance with the law.

805 *Violence in the Workplace*

Policy Statement – The Town of Berne is committed to providing its employees with a work environment that is safe, secure, and free from violence. The Town also considers the safety of its residents, vendors, contractors, and the general public (collectively referred to as “visitors”) to be of paramount importance and strives to provide them the same type of protections while on Town property.

Workplace Violence Prevention Program – In accordance with the New York State Workplace Violence Prevention Act, the Town of Berne has developed a Workplace Violence Prevention Program. As a part of this program, the Town conducted a comprehensive risk evaluation of the entire workplace and will conduct annual reviews to identify risk factors that may increase the likelihood of workplace violence and implement appropriate measures to minimize or eliminate these hazards. In order to achieve this goal, the Town encourages the participation and cooperation of employees and their authorized employee representative(s). A copy of the program is attached as Appendix B to this

Employee Handbook.

806 Plan for Operations in the Event of a Declared Public Health Emergency Involving a Communicable Disease

Policy Statement – In accordance with NYS legislation (S8617B/A10832), the Town of Berne has created a plan to provide appropriate protection to and for employees and contractors in the event of another State disaster emergency involving a communicable disease. This plan is attached to this Employee Handbook as Appendix C.

807 Drug-Free Workplace / Drug Free Awareness Program

Policy Statement – It is the policy of the Town of Berne that the unlawful manufacture, distribution, dispensation, possession, or use of an illegal controlled substance as defined in the Federal Drug-Free Workplace Act, is prohibited on the job or at the workplace.

Coverage – The Town of Berne’s Drug-Free Workplace Policy pertains to all individuals who are employed by the Town of Berne.

Compliance with Federal Drug-Free Workplace Act – The Federal Drug-Free Workplace Act of 1988 is applicable to all recipients of Federal grants. In order to receive federal funds, the Town must certify to the granting Federal agency that it will provide a drug-free workplace in accordance with the legislation. As a recipient of Federal grants, the Town hereby complies with the requirements of the Drug-Free Workplace Act by adopting this policy and drug-free awareness program:

Prohibited Conduct – No employee shall use, sell, distribute, dispense, possess, or manufacture any alcoholic beverage, illegal drugs, or any other intoxicating substance, nor be under the influence of such, while on duty, at any job site or workplace, or in a Town vehicle, a vehicle leased for Town business, or a privately owned vehicle being used for Town business. An employee who, after investigation, is found to have violated this prohibition may be referred for counseling or rehabilitation and satisfactory treatment and will be subject to criminal, civil and disciplinary penalties, up to and including termination of employment. Any work-related accident or injury involving a Town vehicle, equipment, and/or property where it can be demonstrated that the use of alcohol, illegal drugs, or any other intoxicants may have been a contributing factor will result in disciplinary action which may include penalties up to and including termination of employment.

Use of Prescription and Over-the-Counter Drugs – Prescription drugs must be in the possession of the individual to whom the prescription was written, taken in the dosage prescribed, and maintained in their original containers. Employees in public safety or safety-sensitive positions must inform their supervisors of any prescription or legal, nonprescription (i.e., over-the-counter) drugs they are currently taking that could in any way affect or impair the employee's ability to perform the job safely. The legal use of prescribed

and over-the-counter drugs is permitted on the job only if it does not impair an employee's ability to perform the job safely and if it does not affect the safety or wellbeing of other individuals in the workplace.

Non-Discrimination Policy – The Town of Berne will not discriminate against an applicant or employee because of past substance abuse provided it can be demonstrated that the applicant/employee has received appropriate treatment and tests negative for controlled substance use. It is the current use of alcohol and controlled substances that will not be tolerated in the workplace.

Employee Assistance – It is the policy of the Town to work with an employee suffering from substance abuse so that the employee will receive assistance necessary to overcome dependency. An employee seeking such assistance is encouraged to contact the employee's Department Head to discuss the situation before problems begin to surface in the workplace. Any disclosures made by an employee will be treated as strictly confidential to the greatest extent practicable. The employee's decision to seek assistance will not be used as the basis for disciplinary action nor used against the employee in any disciplinary proceeding.

Employee Responsibilities – As a condition of the Town receiving Federal grant monies, each employee must abide by this policy and notify the employee's Department Head of any criminal drug statute conviction for a violation occurring in the workplace within five calendar days of the conviction.

Town Responsibilities – The Town will notify the granting federal agency within ten days after receiving notice from an employee of such a conviction or otherwise receiving actual notice of such conviction. In addition, within thirty calendar days of receiving notice of a conviction, the Town will take disciplinary action against the employee and/or require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program pursuant to Sections 702 and 703 of the Drug-Free Workplace Act.

Drug-Free Awareness Program – It is the policy of the Town of Berne to maintain a drug-free workplace. In accordance with that policy, the Town is providing the following drug-free awareness information to raise employee awareness of the dangers associated with drug abuse in the workplace.

Dangers of Drug Abuse in the Workplace

Employees with chemical dependence problems have a major negative impact on productivity, staff morale, and labor/management relations. Their hidden illness is responsible for:

1. Declining Performance

- poor concentration
- confusion in following directions
- noticeable change in the quality of work
- inability to meet deadlines

- errors in judgment affecting the health and safety of others
- customer complaints and injuries

2. Increased Costs

- five times the average sick and accident benefits
- higher job turnover, replacement and training costs
- greater workers' compensation and health insurance payments
- 3 to 5 times more on-the-job accidents
- unemployment claims

3. Absenteeism and Tardiness

- double the normal rate
- repeatedly being late for work and often leaving early
- extended lunch hours
- frequent illness and accidents both on and off the job

4. Damaged Relationships

- emotional outbursts, over-reaction to criticism, mood swings, complaints from co-workers, associates and the public often leading to damaged relations

808 ***Controlled Substance and Alcohol Testing***

Statement of Compliance – The Town Board has adopted a Controlled Substance and Alcohol Testing Policy that is in compliance with the "Omnibus Transportation Employee Testing Act of 1991" (OTETA). The purpose of this policy is to reduce accidents resulting from an employee's use of controlled substances and alcohol, thus reducing fatalities, injuries and property damage.

Covered Employees – The Town's Controlled Substance and Alcohol Testing Policy applies to all covered drivers as defined by the federal regulations, which includes all employees who drive commercial motor vehicles (as defined in Sec. 382.107 of the OTETA) requiring a commercial driver's license to operate.

Acknowledgment Form – A covered employee will receive a written copy of the Controlled Substance and Alcohol Testing Policy and must sign an Employee Acknowledgment Form. This form will be placed in the employee's personnel file.

809 ***Smoking***

Policy Statement – In accordance with the NYS Clean Indoor Air Act, and, as stated in Section 404 –General Policy, it is the policy of the Town to prohibit smoking in the workplace, which includes all Town buildings and all Town vehicles.

900 SAFETY

901 Workplace Safety

Policy Statement – Prevention of injury and illness in the workplace requires the cooperation of all employees in all safety and health matters. It is the policy of the Town to reduce the number of workplace injuries and illnesses to an absolute minimum. Accidents can be prevented through use of reasonable precautions and the practice of safe working habits.

Employee Responsibility – In an effort to protect all employees and to safeguard equipment and property, before an employee begins a given task, it is the employee's responsibility to understand the correct operation and possible hazards involved, safety procedures, and necessary safety equipment required to perform the job.

Safety Program – The Town's safety program includes, but is not limited to, the following:

- Providing mechanical and physical safeguards to the maximum extent possible;
- Conducting inspections to find and eliminate unsafe working conditions and practices, control health hazards, and comply with the safety and health standards for every job;
- Training all employees in safety and health practices;
- Providing necessary personal protective equipment and instructions for its use and care;
- Developing and enforcing safety and health rules and requiring that employees cooperate with these rules as a condition of employment;
- Investigating, promptly and thoroughly, every accident to find the cause and correct the problem to prevent future occurrences;
- Providing First Aid kits and fire extinguishers throughout buildings and facilities.

Accident Plan – In the event of an accident, an employee must immediately stop work and take the following steps:

- Provide aid to the injured person and summon for assistance;
- Eliminate the immediate cause of the accident;
- If the accident appears serious, call 911; and
- Notify the Department Head immediately; and
- Take steps to prevent additional accidents.

Accident Reporting Procedures – In the event an accident occurs in the workplace or in the course of employment, the following procedures will apply:

- When an accident occurs which results either in the loss of an employee's work time, or in the provision of medical care to an employee, the employee must immediately notify the Department Head who will in turn notify the Town Clerk. The Town Clerk must complete an *Employer's Report of Injury Form (C-2F)* and submit according to operating procedures.
- When an accident occurs which does not result in the loss of an employee's work time, or in the provision of medical care to the employee, the employee must immediately notify the Department Head who will in turn notify the Town Clerk. The Town Clerk will maintain appropriate documentation of the incident.
- The Town Clerk will keep a log of the injury or illness for five years following the end of the calendar year to which it relates. A copy of this log, which includes totals and information for the year, must be posted in each department or areas where notices to employees are customarily posted.

902 **Hazard Communication Program**

Statement of Compliance – The Town of Berne is committed to providing a safe and healthy work environment and complies with all Federal, State and local laws regarding hazard recognition, accident prevention, and working conditions. The Town considers Hazard Communication and the prevention of workplace injuries and illnesses to be of prime importance.

Guidelines – The following guidelines for the identification of chemical hazards and the preparation and proper use of containers, labels, placards, and other types of warning devices must be adhered to:

- **Chemical Inventory** – The Town must maintain an inventory of all known chemicals in use. An employee may obtain the chemical inventory from the employee's supervisor or Department Head.
- **Container Labels** – All chemicals on a worksite must be stored in the original or approved containers with the proper label attached. The Department Head must ensure that each container is labeled with the identity of the hazardous chemical contained and any appropriate hazard warnings. The Town will rely on manufacturer applied labels whenever possible. A container that is not labeled or on which the manufacturer's label has been removed, must be properly labeled. A container not properly labeled must be given to the Department Head for labeling or proper disposal.
- **Dispensing Chemicals** – An employee may dispense chemicals from original containers only in small quantities intended for immediate use. Any chemical leftover must be returned to the original container or to the Department Head for proper handling. No unmarked containers of any size are to be left in the work area unattended.

Safety Data Sheets (SDS) – An employee working with a Hazardous Chemical shall obtain a copy of the Safety Data Sheet (SDS) and a standard chemical reference from the employee's Department Head.

Employee Training – An employee must be trained to work safely with hazardous chemicals. This training program must cover the following areas:

- Methods used to detect the release of hazardous chemicals in the workplace;
- Physical and health hazards of chemicals and the measures used to protect employees;
- Safe work practices;
- Emergency responses to the exposure of hazardous chemicals;
- Proper use of personal protective equipment; and
- Hazard Communication Standards, including labeling and warning systems, and an explanation of the use of Safety Data Sheets.

Personal Protective Equipment (PPE) – Depending on job duties, an employee must routinely wear protective devices, such as gloves and safety glasses, as directed by the supervisor. An employee who is required to wear special safety equipment as directed by the supervisor must comply with the supervisor's request.

Emergency Response – Any incident of overexposure or spill of a hazardous chemical/substance must immediately be reported to the employee's supervisor. The supervisor must ensure that proper emergency response actions are taken.

Hazards of Non-Routine Tasks – The Department Head must inform employees of any special tasks that may arise which would involve possible exposure to hazardous chemicals. Review of safe work procedures and use of required PPE must be conducted prior to the start of these tasks. Where necessary, areas will be posted to indicate the nature of the hazard involved.

1000 COMMUNICATION PROCEDURES

1001 Organizational Communications

Summary – The Town Board is committed to assuring effective communications between the Board and employees. The success of the organization is dependent upon a set of common interests and goals that are achieved through teamwork, sharing of ideas, and effective communications of our short-term and long-term plans. From time to time, information and updates will be distributed to employees. All employees are encouraged to discuss this information with their Department Head should there be any questions.

Methods of Communication – Information will be communicated to employees in a variety of ways, including general and departmental meetings, e-mail distributions, memos and other written correspondence, notices distributed with paychecks, and posting of information. Employees should check bulletin boards frequently to keep informed on changes in employment matters and other items of interest. Except as otherwise provided by a collective bargaining agreement, all material to be posted on bulletin boards, including memos and announcements, must have the prior approval of the appropriate Department Head.

1002 Adverse Communications

Policy Statement – An employee who receives any communication of a negative nature directed to the Town, or to any of its officers or employees in their official capacity, shall immediately notify and/or forward the communication to the appropriate Department Head. The term “communication” shall refer to both written and verbal communications, and includes, but is not limited to, memoranda, faxes, messages, letters, legal notices, e-mails, summonses and other communications.

1003 Suggestions

Policy Statement – Giving and receiving feedback is encouraged in order to promote a positive, productive, and cooperative atmosphere. Employees should notify their supervisor or Department Head of any suggestions that may be valuable to the Town’s productivity and success. All suggestions will be carefully reviewed and may be implemented if feasible.

1004 Public Relations

Policy Statement – The courteous, professional treatment of members of the public by all employees helps to build confidence among the citizens we serve. We require all employees to make every effort to represent the Town in a polite and professional manner.

1005 Press Policy

Policy Statement – All requests for information directed to a Town employee from the media (e.g. television, radio, newspaper) regarding any aspect of Town affairs must be referred to the employee's Department Head. The Department Head should use cautionary judgment in responding and notify the Town Supervisor's Office of the request. If the request is concerned with something of a sensitive nature, the Town Supervisor or Town Attorney should be notified prior to the release of any statement or information. Department Heads may refer all such requests to the Town Supervisor's Office or the Town Attorney with notification to the Town Supervisor.

All press releases, publications, articles and any other documents for release to the media or the public must be approved in advance by Department Heads and copied in advance to the Town Supervisor's Office.

1006 Reporting of Improper Activities

Policy Statement – Any employee who witnesses or becomes aware of an inappropriate action, improper financial circumstance, inappropriate use of Town funds or property, safety issue, or other matter that appears to be improper, should immediately make his or her Department Head or supervisor, the Town Supervisor, or any Town Board member aware of the issue. When an imminent and serious danger to public health or safety exists, an employee may see fit to immediately report violations to law enforcement or other applicable governing body. Even if you are in doubt about what you witnessed or were made aware of you should report the matter.

Retaliation – Under Section 75-B of New York State Civil Service Law, New York State Public Sector Whistleblower Law, an employee, who in good faith, discloses to a governmental body information regarding a violation of law, a substantial and specific danger to the public health or safety, or an improper governmental action which the employee reasonably believes to be true, shall be protected from any adverse personnel action including, but not limited to: termination, disciplinary action, or changes in compensation. Any Town employee or officer who commits or condones any form of retaliation against anyone who in good faith reports alleged misconduct will be subject to discipline up to, and including, termination.

1100 DISPUTE RESOLUTION

1101 Dispute Resolution Procedure

Policy Statement – The Town Board has established a set of procedures to provide for the orderly resolution of differences at the earliest possible stage and to promote a harmonious and cooperative relationship between employees, Department Heads and members of the Town Board that will enhance the overall operation of the Town. The Town will attempt to resolve all work-related complaints that are appropriate for handling under this policy.

Definition of Dispute – For the purpose of this Employee Handbook, a “dispute” will mean a claimed violation, misinterpretation or inequitable application of any of the provisions of this Employee Handbook. In addition, the term “dispute” shall not apply to any matter as to which the Town is without authority to act. A few examples of matters that may be considered appropriate disputes under this policy include:

- A belief that Town policies, practices, rules, regulations, or procedures have been applied in a manner detrimental to an employee;
- Improper or unfair administration of employee benefits or conditions of employment such as scheduling, vacations, fringe benefits, promotions, retirement, holidays, salary, or seniority.

Step One – An employee who claims to have a dispute may present the dispute to the employee’s Department Head. The dispute must be submitted, in writing, within seven working days following knowledge of the event(s) which caused the dispute or when the employee should have had knowledge. The dispute will specify the date of submission, the name of the aggrieved employee, the date the dispute arose, the nature of the dispute, the provision of the Employee Handbook that was allegedly violated and a statement of facts, times, dates, and the remedy sought.

Within seven working days after receiving the dispute, the employee’s Department Head will meet with the employee to discuss and attempt to resolve the matter.

Step Two – In the event the informal dispute is not resolved at Step One, or the employee reasonably believes that the employee cannot present the dispute to the employee’s Department Head, the employee may submit the matter to the Town Supervisor. The dispute must be submitted, in writing, within seven working days from receiving the Step One response, or when the response should have been received or if Step One is not utilized for the above reason, within seven working days following knowledge of the event(s) which caused the dispute or when the employee should have had knowledge. Within seven working days after receiving the dispute, the Town Supervisor will meet with the employee to discuss and attempt to resolve the matter. Within seven working days from the meeting, the Town Supervisor will issue a written response.

Step Three – In the event the employee is not satisfied with the response at Step Two, the employee may submit the matter to the full Town Board by filing a Request for Hearing with the Town Clerk. The Request for Hearing must be submitted, in writing, within seven

working days from receiving the Step Two response, or when the response should have been received. The Request for Hearing will include a written statement of the dispute as outlined in Step One of this Procedure.

The Town Board will set the time and place for the hearing. All decisions rendered by the Town Board will be final and binding.

Time Limits – The employee must adhere to the time limits set forth in this dispute procedure. In the event the employee does not advance the dispute to the next step within the established time limit, the dispute will be considered withdrawn and no further appeal will be accepted. The time limits may be extended by mutual agreement provided the extension is in writing, dated and signed by the employee and the person who is to receive the dispute.

Final Decisions – Final decisions on disputes will not be precedent-setting or binding on future disputes unless they are stated as official Town policy.

Proper Use of Dispute Resolution Procedure – Employees will not be penalized for proper use of the dispute resolution procedure. However, it is not considered proper use if an employee raises a dispute in bad faith or solely for the purposes of delay or harassment, or repeatedly raises meritless disputes. Implementation of the dispute procedure by an employee does not limit the right of the Town to proceed with any disciplinary action that is not in retaliation for the use of this procedure.

Refusal to Proceed with Dispute – The Town Board may, at its discretion, refuse to proceed with any dispute it determines is improper or baseless under this policy.

Union Employees – An employee who is a member of a collective bargaining unit should refer to the applicable collective bargaining agreement to determine if the employee's dispute (grievance) may be subject to the grievance procedure contained in the employee's collective bargaining agreement.

1200 APPENDICES

Appendix A – Employee Handbook Acknowledgment Form

Detach and place in employee's personnel file.

<p style="text-align: center;">TOWN OF BERNE</p> <p style="text-align: center;">EMPLOYEE HANDBOOK ACKNOWLEDGMENT</p>
--

I hereby acknowledge that I have received a copy of the *Town of Berne Employee Handbook* outlining the rules, regulations, procedures, practices, work standards, employment classifications, compensation, and benefits of the Town of Berne. I further acknowledge that I have read, or will read, the contents of the Employee Handbook and will contact my Department Head or the Town Supervisor if I have any questions.

I understand that the Employee Handbook is not meant to create a contract of employment, nor should it be construed as creating a contract of employment and that the Town Board of the Town of Berne reserves the right to interpret, change or modify any section of the Employee Handbook at any time. Except as otherwise provided by law, I understand that I am an employee at will.

I understand that, if I am covered by a collective bargaining agreement between the Town of Berne and an employee organization as defined by the Public Employees' Fair Employment Act, in the event an expressed and explicit provision set forth in a collective bargaining agreement should conflict with an employee benefit, personnel policy, personnel procedure, or other provision set forth in the Employee Handbook, the expressed and explicit provision of the collective bargaining agreement will control. Otherwise, unless expressly excluded herein, the Employee Handbook is applicable to all employees.

I agree to abide by the personnel policies, procedures, rules and regulations outlined in the Employee Handbook.

I understand that the Employee Handbook and the changes contained herein are intended to supersede all prior manuals and guidelines issued by the Town of Berne, and may be changed from time to time, by the Town of Berne.

Employee name (please print)

Employee Signature and date

Appendix B – Workplace Violence Prevention Program

WORKPLACE VIOLENCE PREVENTION PROGRAM POLICY STATEMENT

Our municipality, Town of Berne, is concerned and committed to our employees' safety and health. We refuse to tolerate violence in the workplace and will make every effort to prevent violent incidents from occurring by implementing a Workplace Violence Prevention Program (WPVP). We will provide adequate authority and budgetary resources to responsible parties so that our goals and responsibilities can be met.

All elected Officials, Department Heads and Supervisors are responsible for implementing and maintaining our WPVP Program. We encourage employee participation in designing and implementing our program. We require prompt and accurate reporting of all violent incidents whether or not physical injury has occurred. We will not discriminate against victims of workplace violence.

A copy of this Policy Statement and our WPVP Program is readily available to all employees from their Department Head or Town Supervisor.

Our program ensures that all employees, including Elected Officials, and Department Heads and adhere to work practices that are designed to make the workplace more secure, and do not engage in verbal threats or physical actions, which create a security hazard for others in the workplace.

All employees, including Elected Officials, and Department Heads are responsible for using safe work practices; for following all directives, policies and procedures, and for assisting in maintaining a safe and secure work environment.

The management of our municipality is responsible for ensuring that all safety and health policies and procedures involving workplace security are clearly communicated and understood by all employees. Department Heads and are expected to enforce the rules fairly and uniformly.

Our Program will be reviewed and updated annually.

Overview

Workplace Violence Prevention Manual

Introduction

Workplace violence presents a serious occupational safety hazard for workers. On June 7, 2006, New York State enacted legislation that requires public employers (other than schools covered under the school safety plan requirements of the education law) to perform a risk evaluation of its workplaces and develop and implement programs to prevent and minimize workplace assaults and homicides.

Purpose

The purpose of the Workplace Violence Prevention Program and Procedures Manual is to provide information to Elected Officials, Department Heads, Supervisors, and employees about preventing and responding to incidents of workplace violence or threats of violence and the “New York State Public Employer Workplace Violence Prevention Law”.

The goals of the program and manual are:

1. To reduce the probability of threats or acts of violence in the workplace, and
2. To ensure that any incident, complaint, or report of violence is taken seriously and dealt with appropriately.

This manual outlines the major components of the effort to meet these goals, program, procedures, workplace security risk evaluation, prevention, training, and other support services.

Access to this manual

The Workplace Violence Prevention Program and Procedures Manual can be downloaded from the Town of Berne website: www.berneny.org.

Workplace Violence Prevention Program

The Town of Berne will not tolerate violence in the workplace. All incidents, complaints, and or reports of violent behavior will be taken seriously. The Town of Berne is committed to providing its employees with a reasonably safe and secure work environment.

Purpose of Program

Violence in the workplace is a leading cause of fatal and non-fatal occupational injury throughout the U.S. that may affect an organization at any time. The purpose of this program is to address the issue of potential workplace violence, prevent workplace violence from occurring to the fullest extent possible, and set forth procedures to be followed when such violence has occurred.

Statement of Program

Violence, threats of violence, harassment, intimidation, and other disruptive behavior in the workplace will not be tolerated by the Town of Berne. Examples of disruptive behavior can include oral or written statements, gestures, or expressions that communicate a direct or indirect threat of harm. Such behavior will be taken seriously and will be dealt with appropriately.

Scope of Program

All Town of Berne employees are required to comply with this program. In addition, since visitors at the Town of Berne owned property and facilities are required to conduct themselves in a nonviolent manner in conformity with existing law, employees who observe or experience visitors of Town owned property engaging in violent behavior should follow the procedures in the manual for the reporting of such behavior.

Application of Program

Violence and other disruptive behavior by or against any employee of the Town of Berne or member of the public in a town designated workplace is unacceptable. A town designated workplace includes offices, work sites, vehicles, field locations, and any other location where town business is conducted. Individuals who commit such acts may be removed from the premises and may be subject to appropriate disciplinary action, including, where legally appropriate, termination of employment and/or criminal penalties.

Training

All Department Heads shall ensure that employees of their particular department are informed of the requirements of the law, the risk factors in their workplace, and the location of the written workplace violence prevention program. Training is also required for employees on the measures employees can take to protect themselves from risks and the details of the written workplace violence prevention program. Employee workplace violence training is to be provided at the time of job assignment and annually thereafter.

Reporting of Violence

At the core of this Workplace Violence Prevention Program is the Town's commitment to work with its employees to maintain a work environment free from violence and other disruptive behavior to the greatest degree possible.

- Any town employee, upon becoming aware of an instance of physical assault, threatening behavior or verbal abuse occurring in the work setting, must immediately report the facts and circumstances of said incident to their Supervisor. In the event that employees observe or experience violent behavior from town employees or visitors at the town owned property in which there is an immediate threat to their safety or the safety of others or where an injury has occurred, the employee should immediately obtain police and medical assistance and in addition notify the Town Supervisor or their Department Head.
- The Supervisor will immediately conduct a preliminary inquiry into the facts and circumstances of the incident and make a prompt report to the Department Head/Town Board.
- The Department Head/ Town Board will determine if there is:
 - a) An immediate threat of violence. If so, the Department Head/Town Board will ensure police and emergency medical personnel have been notified and thereafter follow the procedures outline in subparagraph (b) or (c) below.
 - b) Serious misconduct or criminal behavior by Town employee. If so, the Department Head shall immediately notify the Town Supervisor at 518-872-1448 ext.103 and the Attorney for the Town at 518-701-2775 and take no further action.

c) No immediate threat of violence and any serious misconduct or criminal behavior by a Town employee. In that event, the Department Head/Town Board will:

- Continue the investigation;
- Resolve/mediate matter;
- Initiate disciplinary action, if appropriate;

NOTE: In all instances, a written summary report of the incident and all actions taken will be prepared and submitted within three business days to the Town Board and the Attorney for the Town.

Retaliation against an employee who makes a good faith report of violence or other disruptive behavior is strictly prohibited and shall be subject to appropriate corrective or disciplinary measures. An employee, who, in bad faith makes a false report, is also subject to disciplinary action.

New York State Workplace Violence Prevention Law

Introduction

The “New York Public Employer Workplace Violence Prevention Law” was enacted on June 7, 2006, to ensure that public employers evaluate their workplaces and develop and implement effective response and prevention strategies to prevent and minimize workplace violence.

Requirements of the law

Employers must evaluate their workplace or workplaces for factors or situations that may increase the risk of occupational violence. Examples of such factors include working in public settings, working alone or in small numbers, and working late night or early morning hours. The next section of this manual, “Workplace Risk Evaluations”, identifies the results of the Town of Berne workplace risk evaluation.

In addition, employers with at least 20 full time permanent employees must develop and implement a written workplace violence prevention program. The written program must identify the risk factors identified in the workplace risk evaluation and the methods the employer will use to prevent incidents of violence in the workplace.

Finally, the law requires employers to inform employees of the requirements of the law, the risk factors in their workplace, and the location of the written workplace violence prevention program. Training is also required for employees on the measures employees can take to protect themselves from risks and the details of the written workplace violence prevention program. Employee workplace violence training must be provided at the time of job assignment and annually thereafter. All Department Heads shall ensure that this required training is provided in accordance with the law.

Application of the law

“Any employee or representative of employees who believes that a serious violation of a workplace violence protection program exists or that an imminent danger exists shall bring such matter to the attention of the Town Supervisor, or Department Head, in the form of a written notice and shall afford the employer a reasonable opportunity to correct such activity, policy, or practice. This referral shall not apply where imminent danger or threat exists to the safety of a specific employee or to the general health of a specific patient and the employee reasonably believes in good faith that reporting to the Town Supervisor or Department Head would not result in corrective action.” (NYS Labor Law sections 27-b (b) (a)).

“If following a referral of such matter to the employee’s Department Head’s attention and after a reasonable opportunity to correct such activity, policy or practice the matter has not been resolved and the employee or representative of employees still believes that a violation of a workplace violence prevention program remains, or that an imminent danger exists, such employee or representative of employees may request an inspection by giving notice to the Commissioner of Labor of the State of New York of such violation or danger. Such notice and request shall be in writing, shall set forth with reasonable particularity the grounds for the

notice, shall be signed by such employee or representative of employees, and a copy shall be provided by the Commissioner to the employer or the person in charge no later than the time of inspection, except that on the request of the person giving such notice, such person's name and the names of individual employees or representatives of employees shall be withheld. Such inspection shall be made forthwith." (NYS Labor Law Section 17b (6) (b))

Further Information

See Appendix A for the full text of the "NYS Public Employer Workplace Violence Prevention Law", NYS Labor Law Section 27-b.

Workplace Risk Evaluation

Introduction

Certain factors or situations may place employees at a greater risk of workplace violence. This workplace risk evaluation is based upon surveys of Town owned, leased and operated facilities conducted by the Town of Berne Department Heads and reviews of occupational injury and illness logs and incident reports for violence-related injuries.

Risk Evaluation

Workplace violence can occur in any workplace setting. However, some settings or factors may pose a greater degree of workplace violence risk. Employment situations or factors that may pose higher risks for Town of Berne employees include, but are not limited to:

- Working in public setting
- Working late night or early morning hours
- Exchanging money with the public
- Working alone or in small numbers
- Working in a setting with uncontrolled access to the workplace
- Having a mobile workplace assignment
- Working with a population which might expose one to potentially violent persons(e.g. in health care, social service, or criminal justice settings)
- Having duties that include the delivery of passengers, goods, or services.

Prevention

Introduction

Prevention is the responsibility of every employee. This section focuses on some measures to reduce the risk of violent behavior. The Town Supervisor and Department Heads, as well as employees, should be familiar with and knowledgeable of the issues below before violence occurs.

Definitions and Prevalence of Violence

As noted in the Town of Berne Workplace Violence Prevention Program, workplace violence is defined to include violence, threats of violence, harassment, intimidation and other disruptive behavior.

Two million American workers are victims of workplace violence annually. Workplace violence is the fourth leading cause of fatality in the workplace for all workers; it was the cause of 564 deaths in 2005. Finally, a survey in 2005 found approximately 54% of local government employers with more than 1,000 employees reported an incident of workplace violence within the last 12 months.

In reviewing this data, it appears clear that workplace violence is a potential problem in the modern workplace, and one that requires a multifaceted approach by the employer and employees providing support to mitigate the occurrences and effects of violence in the workplace.

Early Warning Signs of Potential Violence

Past behavior has generally been the best predictor of future behavior. There is no specific “profile” of a potentially dangerous individual. Acts of violence may also occur in the workplace due to issues of domestic violence. Sometimes victims and witnesses recount acts of violence that occurred without warning. However, certain patterns of behavior and events frequently precede episodes of violence.

A list of indicators of increased risk of violent behavior may include:

- Direct or veiled threats of harm
- Intimidation, belligerence, bullying or other inappropriate behavior directed at others
- Numerous conflicts with Department Heads and employees; verbal comments indicating expressions of hostility directed at coworkers, Department Heads or others
- Bringing an unauthorized weapon to work, brandishing a weapon in the workplace, making inappropriate reference to guns or fascination with weapons
- Fascination with incidents of workplace violence, statements indicating approval of the use of violence to resolve a problem, or statements indicating identification with perpetrators of workplace homicides
- Statements indicating an increased tone of desperation from the person, feeling that normal interventions to solve the problem will not work, feeling hopeless about a situation at work, with family, financial, and other personal problems
- Signs of abuse of drugs/alcohol on or off the job
- Extreme or uncharacteristic changes in behavior or displays of emotion
- Employees with ongoing domestic difficulties
- Employees with a temporary order of protection against any respondent

These behaviors should be reported to the Town Supervisor, Departmental Head or Town Board. The Town Board is available to assist the Town Supervisor and Department Heads in dealing with such behavior. Some behaviors may require security intervention; other may require disciplinary action.

Sometimes, small behavior problems, which can precede the above behaviors, are dismissed or ignored, allowing problems to fester. In the employee's mind, the situation can become more intense. It is important to remember that the employee must be treated with dignity, mutual respect and fairness in the process. Some of these types of behavior are listed below.

- Withdrawal from friends, coworkers, and/or one's social circle
- Reduced productivity
- Unexplained absence from work area or marked increase in tardiness and/or absenteeism
- Noticeable deterioration of personal hygiene and appearance

Common Issues That May Trigger Workplace Violence

Listed below are two categories of common issues that may trigger workplace violence.

1. Employee issues
 - Negative performance review
 - Unwelcome change in role due to performance or reorganization issue
 - Criticism of performance
 - Conflict with coworker or Department Head
 - Personal stress outside the workplace
 - Increased workload or pressure, e.g. deadlines, projects, etc.

2. Workplace Issues (any of the following may be an employee's perception of issues)
 - No clearly defined rules of conduct
 - Lack of training
 - Inadequate hiring practices/screening of potential employees
 - Insufficient supervision
 - Lack of discipline or inconsistent discipline in workplace
 - Lack of or inadequate employee support systems
 - Failure to address incidents as they occur
 - Overly authoritarian management style

Taking into account, there are three key elements that may help to prevent a violent situation from occurring:

1. Recognizing the early warning signs (such as a change in a person's behavior preceding an episode of violence)
2. Recognizing issues or events that may trigger violence
3. Early intervention to prevent a violent incident from occurring

Please Note

It is important to be careful when drawing assumptions or relying solely on any of the above behaviors as indicators of violence.

RESPONSE PROCEDURES

Introduction

The following procedures are recommended to be followed whenever an employee files a complaint alleging a violation of the Town of Berne Workplace Violence Program has occurred or when a violent incident occurs.

Emergency and Non-emergency (threatening) Situations

A “threatening situation” is a situation where one person, through intimidating words or gestures has induced fear and apprehension of physical or other harm in another person but there is no immediate danger of such harm being inflicted. The steps listed under the “Non-Emergency (threatening) Response Procedure” are recommended to be followed whenever a threatening situation occurs.

A situation is an “emergency” if an injury has occurred or there is an immediate threat of physical harm. Individuals should always consider their personal safety first in all emergency situations. If possible, the ‘Emergency Response Procedure’ should be followed whenever an emergency occurs.

Focus Group Assessment Team

The Focus Group Assessment Team (FGAT) will perform annual reviews of the Town’s Workplace Violence Program and Procedures to determine the need for revisions and updates to the County’s program and procedures. Team members are to include representatives from Justice, Highway, Supervisor, Town Clerk and General Administration. Representatives from these departments should be made available by their department heads for FGAT participation.

Response Procedures

<p style="text-align: center;">Non-Emergency (threatening) Response Procedure</p> <p style="text-align: center;">A Threatening situation is defined as a situation where:</p> <p>One person, through intimidation words or gestures has induced fear and apprehension of physical or other harm in another person but there is no immediate danger of such harm being inflicted.</p>	<p style="text-align: center;">Emergency Response Procedure</p> <p style="text-align: center;">A situation is an emergency if:</p> <ol style="list-style-type: none"> 1) An injury has occurred 2) There is an immediate threat of physical harm. <p>You should consider your personal safety first in all emergency situations. If possible, you should use the following response procedure.</p>
<p style="text-align: center;">Step 1</p> <p>Employee immediately notifies Supervisor.</p>	<p style="text-align: center;">Step 1</p> <p>First person on the scene quickly assesses the situation and risk.</p>
<p style="text-align: center;">Step 2</p> <p>Supervisor conducts preliminary inquiry and makes prompt report to Department Head.</p>	<p style="text-align: center;">Step 2</p> <p>First person on the scene calls for security/medical assistance and ensures needs of injured are met. Employee must also immediately notify Department Head of the situation.</p>
<p style="text-align: center;">Step 3</p> <p>If there has been serious misconduct or criminal behavior by a Town employee, the Department Head will contact Town Supervisor and take no further action.</p>	<p style="text-align: center;">Step 3</p> <p>Supervisor will immediately assess whether there is an emergency situation and make prompt report to Department Head.</p>
<p style="text-align: center;">Or Step 3A</p> <p>If there is no immediate threat of violence and no serious misconduct or criminal behavior by a Town employee the Department Head/Town Board will continue investigation, resolve/mediate matter and initiate disciplinary action.</p>	<p style="text-align: center;">Step 4</p> <p>The Department Head/Town Board in an emergency situation where there is an immediate threat of violence will ensure the Police and medical personnel have been notified.</p>
<p style="text-align: center;">Step 4</p> <p>Department Head ensures that a written summary report of the incident and all actions taken is prepared and submitted within three business days to Town Board and Attorney to the Town.</p>	<p style="text-align: center;">Step 5</p> <p>Proceed with Non-Emergency Response Procedures, Steps 3-5</p>
<p style="text-align: center;">Step 5</p> <p>If emergency situation develops, follow steps for emergency response procedure</p>	

The Town of Berne Workplace Violence Prevention Policy Statement and Incident Reporting

The Town of Berne is committed to the safety and security of our employees. Workplace violence presents a serious occupational safety hazard to our staff, residents and visitors. Threats, by anyone on Town of Berne property will be thoroughly investigated and appropriate action will be taken, including summoning criminal justice authorities when warranted. All employees are responsible for helping to create an environment of mutual respect for each other as well as clients, following all policies, procedures and program requirements, and for assisting in maintaining a safe and secure work environment.

This policy is designed to meet the requirements of NYS Labor Law 27b and highlights some of the elements that are found within our Workplace Violence Prevention Program. The process involved in complying with this law included a workplace evaluation that was designed to identify the workplace violence hazards our employees could be exposed to. Other tools that were utilized during this process included establishing a committee made up of management and authorized employee representatives who will have an ongoing role of participation in the evaluation process, recommending methods to reduce or eliminate the hazards identified during the process in investigating workplace violence incidents or allegations. All employees will participate in the annual Workplace Violence Prevention Training Program.

The goal of this policy is to promote the safety and well-being of all people in our workplace. All incidents of violence or threatening behavior will be responded to immediately upon notification. The Town of Berne has identified response and personnel that include a member of management and an employee representative. If appropriate, the Town of Berne will provide counseling services referrals for employees.

All employees are responsible for notifying the contact person designated below as any violent incidents, threatening behavior, including threats they have witnessed, received, or have been told that another person has witnessed or received.

Designated Contact Persons:

Title:	Town Supervisor	Town Attorney	Town Clerk
Phone:	518-872 1448 ext. 103	518-701-2775	518-872 1448 ext. 101

**Appendix C – Plan for Operations in the Event of a Declared Public Health
Emergency Involving a Communicable Disease**

1	PART 1 INTRODUCTION	2
1.1	General Purpose	2
1.2	Exceptions and Conflicts	3
1.3	Facilities	3
1.4	Definitions	3
2	PART 2 PROTOCOLS	5
2.1	Essential Functions and Employees	5
2.2	Telecommuting	5
3	WORKPLACE ISOLATION	7
3.1	Exposure controls during a designated outbreak	7
3.2	Advanced controls during a designated outbreak	8
3.3	Personal Protective Equipment (PPE)	12
3.4	Daily Monitoring	12
3.5	Suspected and Known Exposure	13
3.6	Unverified Illness and Leave of Absence	15
3.7	Contact Tracing	16
3.8	Personal Health Data	17
4	HOUSEKEEPING DURING A DESIGNATED OUTBREAK	17
4.1	Disinfection Methods and schedules	17
4.2	Adjustments to normal cleaning procedures	18
5	TRAINING AND INFORMATION DURING A DESIGNATED EMERGENCY	18
5.1	Activated Plan Training	18
5.2	Training Provisions	19
6	REMOTE PARTICIPATION	19
6.1	Video Conferencing	19
7	ANTI-RETALIATION	20
7.1	No Discrimination	21

PART 1 INTRODUCTION

1.1 General Purpose

1.1.1 Statement of Purpose: This *Emergency Action Plan* has been created to communicate important information in the event of a declared public health emergency. The purpose of this plan is to protect employees against exposure and disease during an airborne infectious disease outbreak. This plan goes into effect when an infectious disease that is transmittable through contact or airborne means is designated by the New York State Commissioner of Health as a highly contagious communicable disease that presents a serious risk of harm to the public health. This plan is subject to, and may be superseded by, any additional or greater requirements arising from a declaration of a state of emergency due to an airborne infectious disease, as well as any applicable federal standards.

This Plan includes, but is not limited to:

- 1) Identification of essential personnel;
- 2) Assignment of certain employees to remote work;
- 3) Provision of the necessary materials and technologies to continue the essential work of the Town;
- 4) Provision of alternate, or modified workspaces and procedures, such as access control, isolation, the modification or staggering of work shifts of essential employees or other means that may be appropriate to facilitate the safety of town personnel while providing essential services;
- 5) The procurement and distribution of personal protective equipment (“PPE”) as appropriate;
- 6) Training;

It is important to note that this plan does not apply to any seasonal or endemic infectious agent or disease such as the seasonal flu that has not been designated by the NY Commissioner of Health as a highly contagious communicable disease that presents a serious risk to the harm of the public health.

1.1.2 Previous Manuals: This *Emergency Action Plan* when adopted by the Town Board of the Town of Berne shall replace any previous policy(s) issued by the Town of Berne (“Town”) concerning the policies, procedures, and practices contained herein.

1.1.3 Questions: All Town of Berne employees should address any questions regarding this *Emergency Action Plan* to the employee’s Department Head or to the Town Supervisor. Any questions requiring interpretation of this *Emergency Action Plan* shall be referred to the Town Human Resource Manager or the Town Supervisor’s Office.

1.2 Exceptions and Conflicts

1.2.1 Exceptions: This *Emergency Action Plan* should not be interpreted as a guarantee that the policies and practices in it shall be applied in all cases. This exposure prevention plan will be reviewed and updated whenever necessary to reflect new or modified tasks and procedures that will affect occupational exposure and reflect new or modified employee assignments and, the Town Board may at its sole discretion, modify, adapt or make exceptions to any part of this *Emergency Action Plan* where such exceptions are permissible or required by law.

1.2.2 Governmental Regulations: All procedural policies contained in this *Emergency Action Plan* are subject to change in compliance with Federal, State or local law, including Executive Orders, guidance issued by the State of New York, the local Department of Health, or other appropriate lawful authorities. In the event that a Federal, State or local law, rule, or regulation conflicts with any provision contained herein, then such law, rule, or regulation will prevail.

1.2.3 Collective Bargaining Agreement: If, in the course of an emergency, the Town must implement something that impacts, fundamentally changes or conflicts with a collective bargaining agreement, the Town Supervisor shall contact the affected employees' bargaining representative(s), to discuss and/or negotiate any changes to the employees' terms and conditions of employment.

1.3 Facilities

1.3.1 Public Access: In the event of a public health emergency, the Town Supervisor shall determine what Town facilities will be open to the public and what restrictions may be imposed on the public use of such facilities.

1.3.2 Safety Protocols: The Town Supervisor's Office and/or Town Clerk's Office will collaborate with the appropriate personnel to post notices informing the public of appropriate safety protocols. This may include an email blast, posting to the Town of Berne social media sites, postings to the Town's website, and communicating through local media outlets.

1.4 Definitions

All definitions herein are used for the sole purposes of this *Emergency Action Plan*.

1.4.1 Department Head: "Department Head" means the:

- A. Superintendent of Highways - for those employees in the Highway Department and Transfer Station;
- B. Town Clerk - for all employees in the Office of the Town Clerk;
- C. Chairperson of the Assessors - for all employees in the Assessor's Office;
- D. Tax Collector - for all employees in the Tax Department;
- E. Town Justices - for all employees in the Justice Court;
- F. Code Enforcement Officer - for all employees in the Building and Code Enforcement Office;
- G. Town Supervisor - for all other employees.

1.4.2 Employee: a person employed by the Town, including, but not limited to, provisional employees, probationary employees, temporary employees, seasonal employees, and appointed members of a board or commission. Elected Officials and Contractors are specifically excluded from this group.

1.4.3 Contractor: an individual performing services as a party to a contract awarded by the Town.

1.4.4 Essential: refers to a designation made by the Town that an "employee" or a "contractor" is required to be physically present to perform or fulfill a critical operational requirement(s).

1.4.5 Non-Essential: refers to a designation made by the Town that an "employee" or "contractor" is *not* required to be physically present at a work site to perform that individual's function.

1.4.6 Communicable Disease: means an illness caused by an infectious agent or its toxins that occurs through the direct or indirect transmission of the infectious agent or its products from an infected individual, animal or the inanimate environment, to a susceptible animal or human host.

1.4.7 Personal Protective Equipment: means all equipment worn to minimize exposure to hazards, including gloves, face-coverings/masks, face-shields, foot, eye and body protection, protective hearing devices, respirators, hard hats, disposable gowns and aprons and other hazard specific materials as may be required. This is not an exhaustive list.

PART 2 PROTOCOLS

2.1 Essential Functions & Employees

The titles/positions listed below are considered to be essential in the event of a lawfully ordered reduction of the Town's *in-person* workforce. (Please refer to the Human Resources Manager for Civil Service, Civil Service Exempt, FLSA Non Exempt Employee and other job descriptions).

2.1.1 Construction and Maintenance of Roadways: Job titles may include, but are not limited to: Highway Superintendent, Deputy Superintendent of Highways, administrative and support staff, equipment operators and all other titles contained in the Highway Department as may be deemed necessary to maintain roadways and public infrastructure to allow for the safe and efficient transportation of necessary goods and services, including the travel for health care workers, police, firefighters, and other essential persons supporting health and safety.

2.1.2 Code Enforcement, Building and Safety Inspections, Permitting and Plan Review: Job titles may include, but are not limited to: Code Enforcement Officer, Building Inspector(s) and administration and support staff that may be required to allow the continuation of home and commercial construction and continued compliance with Town codes including but not limited to building, fire and public health and safety.

2.1.3 Receipt of Tax Monies: Receiver of Taxes and Deputy Receiver of Taxes and Assessors as required to continue the intake of revenue and continuation of public services.

2.1.4 Finance and Payroll: Town Supervisor's Office & other support staff to ensure that employees are paid, employee benefits are maintained, that Town debts are paid and ensure continuity of public services.

2.1.5 Town Justice System: Town Justices & Justice Court Clerk to ensure that the Town court system is operational, and as required, conduct arraignments, process violations (both vehicle, traffic and criminal), warrants, and other necessary legal and judicial functions as may be necessary.

2.2 Telecommuting

Certain essential and some non-essential employees may be assigned to work remotely.

2.2.1 Assignment to Work Remotely: The Town Supervisor, in consultation with each Department Head, will determine on a case-by-case basis which positions shall be designated for remote work in the event of a State-ordered reduction of *in-person* workforce.

2.2.2 Computing and Word Processing Devices: The Town Supervisor's Office, in collaboration with the appropriate Department Head, will equip non-essential employees who are assigned to work remotely with remote access to their worksite devices. The Town, at its discretion, may provide certain employees, designated by the Town Supervisor, with a computing platform, or other Internet accessible communication devices.

2.2.3 Telephones: The Town Supervisor's Office, in collaboration with the appropriate Department Head, will arrange for the transfer of the Department phone calls to non-essential employees working remotely and/or a designated essential employee.

2.2.4 Use of Devices and Phones: The employee is responsible for reviewing and complying with and the *Town of Berne Employee Handbook* policies related to Telephone / Cell Phone and Computer / Internet Usage.

2.2.5 Modify or Restrict: Nothing in this Plan is intended or shall be deemed to modify, limit or otherwise restrict the Town's right(s) to abolish positions or implement furloughs or layoffs, as may be necessary in the event of a pandemic.

PART 3 WORKPLACE ISOLATION

3.1 Exposure controls during a designated outbreak

During an airborne infectious disease outbreak, and as appropriate, the following basic policies and controls will be utilized in Town worksites and public areas:

3.1.1 A General Awareness Policy: Individuals may not be aware that they have the infectious disease and can spread it to others. Employees are required to:

- Maintain physical distancing;
- Exercise coughing/sneezing etiquette; ^[11]_[5EP]
- Wear face coverings, gloves, and personal protective equipment (PPE), as appropriate;
- Individuals limit what they touch;
- Stop social etiquette behaviors such as hugging and hand shaking;
- Wash hands properly and often.

3.1.2 “Stay at Home Policy”: If an employee develops symptoms of the infectious disease, the employee should not be in the workplace. The employee should inform their supervisor and follow New York State Department of Health (NYSDOH) and Centers for Disease Control and Prevention (CDC) guidance regarding obtaining medical care and isolating.

3.1.3 Health Screening: Employees may be screened for symptoms of the infectious disease at the beginning of their shift. Employees are required to self-monitor throughout their shift and report any new or emerging signs or symptoms of the infectious disease to their supervisor. An employee showing signs or symptoms of the infectious disease will be removed from the workplace and should contact a healthcare professional for instructions. The health screening elements will follow the guidance from NYSDOH and the CDC guidance, as available.

3.1.4 Face Coverings: To protect your co-workers, employees are required to properly wear face coverings throughout the workday to the greatest extent possible. Face coverings and physical distancing should be used together whenever possible. The face covering must cover the nose and mouth, and fit snugly, but comfortably, against the face. The face covering itself must not create a hazard, for example, have features could get caught in machinery or cause severe fogging of eyewear. Face coverings shall be kept clean and sanitary, and changed when soiled, contaminated, or damaged.

3.1.5 Physical Distancing: Physical distancing will be followed to the extent possible. Avoid unnecessary gatherings and maintain a distance of at least six feet (or as recommended by the NYSDOH/CDC for the infectious agent) from each other.

3.1.6 Hand Hygiene: To prevent the spread of infection, employees should wash hands with soap and water for at least 20 seconds or use a hand sanitizer with at least 60% alcohol to clean hands BEFORE and AFTER:

3.1.7 Respiratory Etiquette: Because infectious diseases can be spread by droplets expelled from the mouth and nose, employees should exercise appropriate respiratory etiquette by covering nose and mouth when sneezing, coughing or yawning.

3.1.8 Special Accommodations for Individuals with Added Risk Factors: Some employees, due to age, underlying health condition, or other factors, may be at increased risk of severe illness if infected. Please inform your supervisor or the Human Resources Manager if you fall within this group and need a special accommodation.

3.2 ADVANCED CONTROLS DURING AN OUTBREAK

For activities where the controls listed above will not provide sufficient protection for employees, additional controls may be necessary. The town will follow New York State Department of Health (NYSDOH) and Centers for Disease Control and Prevention (CDC) guidance regarding these methods and requirements.

3.2.1 Highway Department:

Access to Workplace - In the event an essential employee in the Highway Department believes he/she may be experiencing symptoms of a communicable disease (which may vary depending on the disease), the employee should not enter the workplace and must immediately notify the Highway Superintendent or Deputy Highway Superintendent. If an employee is already in the workplace, the employee should immediately notify the Highway Superintendent or Deputy Highway Superintendent, who will notify the employee if they should go home.

Isolation - To the extent possible, only one (1) person shall be assigned per Town vehicle.

Staggered Work Shifts – The Town may seek to implement staggered work shifts. The Superintendent of Highways will provide employees with advanced notice of any changes to the terms and conditions of their employment or work schedule.

Face-Coverings - The Highway Department shall provide face-coverings to its employees. Every employee must wear an approved face-covering any time when in an enclosed area or unable to keep the requirement distance from another employee. Every employee must wear an approved face-covering when amongst the public and in places of business, regardless of the distance.

Distancing - To the extent possible, every employee must keep a safe distance, as prescribed by the Department of Health or CDC, between themselves and other employees and any members of the public.

Break Room – A limited number of employees as determined by the Highway Superintendent or Deputy Highway Superintendent may assemble in the break room. Occupants must wear face coverings (except for eating) and maintain a safe distance from any other occupant.

Hand Washing - Employees should frequently wash their hands with soap and water for at least 20 seconds. When soap and running water are not available, the employee should use an alcohol-based hand rub with at least 60% alcohol.

Disinfecting of Vehicles - The Superintendent of Highways shall ensure the daily cleaning, sterilizing, and disinfecting of Highway Department vehicles and equipment (knobs, dash, handles, steering wheels, etc.).

Disinfecting of Facilities - The Superintendent of Highways or designee shall ensure the daily cleaning, sterilizing, and disinfecting of the Highway Department building (doorknobs, light switches, chairs, etc.).

3.2.2 Justice Court:

Unlike other Town Departments, the Town Justice Court must also comply with any orders and guidance issued by State officials, including the New York State Chief Administrative Judge, the Third Judicial District Administrative Judge, and the Office of Court Administration. If during a public health emergency any of the foregoing officials or agencies have issued orders/guidance applicable to the Town Court that conflict with this *Emergency Action Plan*, the State orders/guidance for Town Justice Court shall prevail.

Access to Workplace - In the event an essential employee in the Court Office believes he/she may be experiencing symptoms of a communicable disease (which may vary depending on the disease), the employee should not enter the workplace and must immediately notify the Town Justice(s) or the Town Supervisor. If an employee is already in the workplace, the employee should immediately notify a Town Justice, who will notify the employee if they should go home.

Face-Coverings - The Town shall provide face-coverings to employees. Every employee must wear an approved face-covering any time when in an enclosed area or unable to keep a safe distance from another employee. Every employee must wear an approved face-covering when amongst the public and in places of business, regardless of the distance.

Distancing - To the extent possible, every employee must keep a safe distance, as prescribed by the Department of Health or CDC, between themselves and other employees and any members of the public. The Town will arrange employee's desks so that they are kept at a safe distance from one another. Additional distancing measures may be taken in the Courtroom, following the directives of the applicable governing agency.

Hand Washing - Employees should frequently wash their hands with soap and water for at least 20 seconds. When soap and running water are not available, the employee should use an alcohol-based hand rub with at least 60% alcohol.

Disinfecting of Facilities - The Town Justices or designee shall direct the daily cleaning, sterilizing, and disinfecting of Town Hall, which will include the Court Room and Court offices (doorknobs, light switches, chairs, etc.).

3.2.3 Other Essential Employees:

Access to Workplace - In the event an essential employee, not covered by a prior section, believes he/she may be experiencing symptoms of a communicable disease (which may vary depending on the disease), the employee should not enter the workplace and must immediately notify their Department Head or the Town Supervisor's Office. If an employee is already in the workplace, the employee should immediately notify their Department Head, who will notify the employee if they should go home.

Isolation - To the extent possible, only one (1) person shall be assigned per Town vehicle.

Staggered Work Shifts - The Town may seek to implement staggered work shifts. If the Town seeks to implement staggered work shifts, the Town Supervisor may contact any affected employees' bargaining representative(s), to the extent necessary, to discuss and/or negotiate any changes to the employees' terms and conditions of employment.

Face-Coverings - The Town Supervisor's Office shall provide face-coverings to employees, to the extent not already provided by the employee's Department Head. Every employee must wear an approved face-covering any time when in an enclosed area or unable to a safe distance from another employee or the public. Every employee must wear

an approved face-covering when amongst the public and in places of business, regardless of the distance.

Distancing - To the extent possible, every employee must keep a safe distance, as prescribed by the Department of Health or CDC, between themselves and other employees and any members of the public. The Town will arrange employee's desks so that they are kept at a safe distance from one another.

Hand Washing - Employees should frequently wash their hands with soap and water for at least 20 seconds. When soap and running water are not available, the employee should use an alcohol-based hand rub with at least 60% alcohol (provided; located by time clock).

Disinfecting of Vehicles - The Town Supervisor shall ensure the daily cleaning, sterilizing, and disinfecting of Town vehicles and equipment (knobs, dash, handles, steering wheels, etc.) that are stationed at or parked at Town Hall. This does not include Police vehicles.

Disinfecting of Town Hall and Other Applicable Facilities - The Town Supervisor's office shall direct the daily cleaning, sterilizing, and disinfecting of the Town Hall and other facilities (doorknobs, light switches, chairs, etc.).

3.3 Personal Protective Equipment

The protocols listed below are to be implemented by the Town to procure PPE.

3.3.1 Procurement: The Town Supervisor's Office shall ensure the procurement of the appropriate PPE for essential employees and contractors, based upon the various tasks and needs of such employees and contractors in a quantity sufficient to provide at least two (2) pieces of each type of personal protective equipment to each essential employee and contractor during any given work shift over at least a six (6) month period of time.

3.3.2 Storage: The Town Supervisor's Office shall ensure the storage of such PPE to prevent degradation and permit immediate access in the event of an emergency declaration.

3.4 Daily Monitoring

The CDC and the N.Y.S. Department of Health will issue guidelines and mandatory practices required for the workplace in the event of a public health emergency. The Town shall adhere to these required and/or recommended practices as closely as possible. The practices listed below may be included amongst those that will be followed by Town employees, contractors and visitors at Town Hall and Town facilities during a pandemic.

3.4.1 Daily Health Questionnaire: Every employee may be required to complete a *Daily Health Questionnaire* for each workday, which must be signed and submitted at the end of the employee's workweek to the Town Clerk's Office. This questionnaire will screen for symptoms of the applicable communicable disease.

3.4.2 Daily Temperature Testing: Each Department Head (as defined in 1.4.1 above), shall be trained to review the information provided by the employee in the *Daily Health Questionnaire* and may be responsible for administering a daily temperature test to their employees.

If this process is initiated, each Department Head (as defined in 1.4.1 above), shall administer and record the daily temperature test of each employee and log the temperature with their initials on the employee's *Daily Health Questionnaire*.

In order to avoid viral contamination, there shall be no personal contact between the Department Head and the employee during the temperature taking process. Both the Department Head administering the temperature test and the employee being tested must wear protective face coverings. The Department Head shall wear gloves and practice health and safety protocols including surface disinfections and social distancing of employees while taking employees' temperatures.

3.4.3 See Something - Say Something: All Town employees shall report any unusual health conditions they experience or observe in others to the appropriate Department Head, or to the Town Supervisor's Office.

3.5 Suspected and Known Exposures

Employees shall follow the procedure below if an employee is exposed to a known case of a communicable disease that is the subject of a public health emergency, exhibits symptoms of such disease, or tests positive for such disease, in order to prevent the spread or contraction of such disease in the workplace.

3.5.1 Unverified Illness: Any employee who is sick should stay home or go home if they become sick at work.

If it is required by the New York State Department of Health, if an employee has reason to believe they are experiencing symptoms of a communicable disease that is the subject of a public health emergency, the employee may be required to immediately notify the County

Department of Health as well as their supervisor, and follow all instructions issued to them by the County Department of Health.

In accordance with the Town Employee Handbook and/or collective bargaining agreement, to report an absence due to illness the employee shall, if able, contact his/her Department Head, or leave a message on the Department's answering system, as soon as possible before the start of the employee's scheduled reporting time. Unless the absence was pre-authorized, the employee must give notice each day of the absence.

3.5.2 Verified Illness: An employee who tests positive or is otherwise quarantined for a communicable disease that is the subject of the public health emergency must stay home and, as soon as possible, notify their supervisor.

The Town, and the employee, will comply with all required contact tracing measures. All employees who may have come into contact with the positive case will be immediately notified and may be sent home.

3.5.3 Disinfecting of Workspace and Equipment: Upon notification of an employee or contractor having been diagnosed, has shown symptoms of, or tested positively for a communicable disease that is the subject of the public health emergency, the appropriate Department Head (as defined in x.x.x above) will ensure that the work area of any employee or contractor known or suspected to be infected is immediately and thoroughly disinfected in accordance with the N.Y.S. Department of Health guidelines. The same applies to any common area, area surface and shared equipment such employee or contractor may have utilized.

3.6 Unverified Illness and Leaves of Absence

The protocols listed below pertain to the use of available leave to receive testing, treatment, isolation, or quarantine due to a communicable disease that is the subject of a public health emergency.

3.6.1 Unverified Illness: An employee who answers "yes" to any of the symptoms on the *Daily Health Questionnaire* or has reason to believe they are experiencing symptoms of a communicable disease that is the subject of a public health emergency will be required to leave the workplace and return home.

*The employee may be required to contact the **County Department of Health** for appropriate action (e.g., diagnostic testing; quarantining). The employee shall fully comply with all directives issued by the **Albany County Department of Health**.*

The employee shall be placed on a “temporary leave of absence”, without loss of pay or leave credits, until the Town Supervisor’s Office or Department Head has determined that the employee may either: (1) remain on a paid leave status; (2) work remotely; or (3) safely return to the workplace based on the findings of the County Department of Health and/or the employee’s treating physician.

Notwithstanding the above, the Town Supervisor, in consultation with the appropriate Department Head, may ask the employee to work from home during the quarantine, if they are capable and are not experiencing symptoms.

An employee who feels ill and is not reporting to work without a positive test result, quarantine order, or other diagnosis for a communicable disease that is the subject of a public health emergency is not eligible for the “temporary leave of absence”, above, but may draw on sick leave credits for the illness.

3.6.2 Exposure to Others: An employee who has been identified to be in close contact with a person who is/was infected or quarantined, either through “contact tracing” (see 2.8 below) or by reasonable belief, will be required to leave the workplace and return home.

*The employee may be required to contact the **County Department of Health** for appropriate action (e.g., diagnostic testing; quarantining). The employee shall fully comply with all directives issued by the **Albany County Department of Health**.*

The employee shall be placed on a “temporary leave of absence”, without loss of pay or leave credits, until the Town Supervisor’s Office has determined that the employee may either: (1) remain on a paid leave status; (2) work remotely; or (3) safely return to the workplace based on the findings of the Albany County Department of Health.

Notwithstanding the above, the Town Supervisor, in consultation with the appropriate Department Head, may ask the employee to work from home during the quarantine if they are capable and are not experiencing any symptoms of the communicable disease.

3.6.3 Verified Illness: *The employee may be required to contact the **County Department of Health** for appropriate action (e.g., diagnostic testing; quarantining). The employee shall fully comply with all directives issued by the **Albany County Department of Health**.*

In the event the employee is ordered to quarantine, the employee shall be placed on a “temporary leave of absence” for the duration of the quarantine.

3.6.4 Travel to Hot Spots: As a result of the spread of a communicable disease, or in the event of a public health emergency, the New York State Department of Health or the CDC may place restrictions on out-of-state and/or international travel. In addition, certain areas may be designated as “hot spots,” by the Federal, State or local government. In this event, employees will be required to comply with any and all provisions set forth by the Federal, State or local government. In addition, an employee who has traveled to a designated “hot spot” must immediately notify their Department Head.

An employee, who voluntarily travels to such a “hot spot” and is ordered to quarantine by a government agency, will be placed on a “temporary leave of absence” without pay. The Town will allow the employee to use their accrued vacation leave credits, and under certain circumstances, an employee may be allowed to use their paid sick leave or personal leave.

3.7 Contact Tracing

The protocols listed below are to aid in tracking of a communicable disease that is the subject of a public health emergency. These provisions will be followed in the event that contact tracing is initiated by the Federal, State or local government.

3.7.1 Employee Work Records: In the event there is a communicable disease that is the subject of a public health emergency, each Department Head (as defined in 1.4.1 above) must document the precise hours and work locations, including off-site visits, for essential employees and contractors.

3.7.2 Daily Log of Visitors: In the event there is a communicable disease that is the subject of a public health emergency, the Town may require that a daily log is kept of all visitors, delivery personnel, or outside vendors entering the Town Hall, worksites or facilities, with records of the date and time they entered and left the location.

3.7.3 Notification of Department of Health: In the event of a suspected or known case of a communicable disease that is the subject of a public health emergency, the Town Supervisor’s Office will contact the Albany County Department of Health to implement and follow “contact tracing”.

3.7.4 Emergency Housing

The Town Supervisor may contact the Albany County Department of Health to identify sites for emergency housing for essential employees in order to further contain the spread of the communicable disease that is the subject of the declared emergency, to the extent applicable to the needs of the workplace.

3.8 Personal Health Data

3.8.1 Confidentiality: All personal health data collected of an employee is confidential and shall only be used for communicable disease data collection and/or contact tracing by the Albany County Department of Health or other government agency (as required).

The identification of an employee infected with a communicable disease that is the subject of the public health emergency shall remain confidential to the public and other Town employees unless directed otherwise by the Albany County Department of Health.

3.8.2 Data Retention: All collected communicable disease health data shall be archived by the Town Clerk's Office and kept in a confidential medical file apart from the employee's personnel files until the data is no longer necessary for public health purposes.

Any lost, hacked, stolen or unauthorized disclosure of health or medical information shall be immediately reported to the Town Clerk's Office.

PART 4 HOUSE KEEPING DURING A DESIGNATED OUTBREAK

4.1 Disinfection Methods and Schedules;

Objects that are touched repeatedly by multiple individuals, such as door handles, light switches, control buttons/levers, dials, levers, water faucet handles, computers, phones, or handrails must be cleaned frequently with an appropriate disinfectant. Surfaces that are handled less often, or by fewer individuals, may require less frequent disinfection. The disinfection methods and schedules selected are based on specific workplace conditions. ^[1]_[SEP]The New York State Department of Environmental Conservation (NYSDEC) and the Environmental Protection Agency (EPA) have compiled lists of approved disinfectants that are effective against many infectious^[1]_[SEP] agents (see dec.ny.gov and epa.gov/pesticide-registration/selected-epa-registered-disinfectants). The Town shall select disinfectants based on NYSDOH and CDC guidance and follow manufacturer guidance for methods, dilution, use, and contact time.

4.2 Adjustments to Normal Cleaning Procedures;

^[1]_[SEP]Normal housekeeping duties and schedules will continue to be followed during an infectious disease outbreak, to the extent practicable and appropriate consistent with NYSDOH and/or CDC guidance in effect at the time. However, routine procedures may

need to be adjusted and additional cleaning and disinfecting may be required. [L] [SEP] Cleaning staff may be at increased risk because they may be cleaning many potentially contaminated surfaces. Some cleaning activities, like dry sweeping, vacuuming, and dusting, can distribute air particles that are contaminated with the infectious agents. Best practice dictates that cleaning staff should always wear respiratory protection and physical protection such as aprons and gloves. See [cdc.gov](https://www.cdc.gov) for more guidance.

- 4.2.1 If an employee develops symptoms of the infectious disease at work, it is ideal to isolate the area in accordance with guidance issued by NYSDOH or the CDC, before cleaning and disinfecting the sick employee's work area. This delay will allow contaminated droplets to settle out of the air and the space to be ventilated.
- 4.2.2 As feasible, liners should be used in trash containers. Empty the containers often enough to prevent overfilling. Do not forcefully squeeze the air out of the trash bags before tying them closed. Trash containers may contain soiled tissue or face coverings.

5.0 TRAINING AND INFORMATION DURING A DESIGNATED EMERGENCY

A. The Town Supervisor shall verbally inform all supervisors and employees of any Federal, State, Executive Order, guidance issued by the State of New York, the local Department of Health, or other appropriate lawful authorities of the establishment of a public health emergency.

The Town Supervisor shall also inform all town employees of the existence and location of this Plan, the infectious disease standard and the applicable town policies outlined in this plan.

5.1 Activated Plan Training;

When this plan is activated, all personnel will receive training that will cover all of the relevant elements of this plan and the following topics:

1. The infectious agent and the disease(s);
2. The signs and symptoms of the disease; [L] [SEP]
3. How the disease can be spread; [L] [SEP]
4. An explanation of this Exposure Prevention Plan;
5. The activities and locations at our worksite that may involve exposure to the infectious agent;
6. The use and limitations of exposure controls; [L] [SEP]

7. A review of the standard, including employee rights provided under Labor Law, Section 218-B.

5.2 Training provisions;

Training will be:

1. Provided at no cost to employees and take place during working hours. If training during normal work hours is not possible, employees will be compensated for the training time (with pay or time off), and may be verbally provided in person or through telephonic, electronic, or other means as necessary.

PART 6 REMOTE PARTICIPATION

6.1 Video Conferencing

6.1.1 Policy Statement: It is at times, under special legal circumstances, necessary for the Town to utilize videoconference technology for the purpose of remotely holding public meetings. The use of this technology requires the Town Board, Planning Board, Zoning Board of Appeals, and other Town-appointed committees to adhere to certain procedures in order to meet legal public meeting requirements. The Town policy for “Public Meetings Conducted by Remote Participation” shall be followed when conditions require or as prescribed by state and county restrictions or mandates to provide a virtual presence by the use of the Town of Berne’s Zoom or other Videoconferencing account.

Notwithstanding anything to the contrary in this policy, all requirements shall be interpreted to promote compliance with the Open Meetings Law, and the Proclamations and the Executive Orders of the Governor, including those regarding the posting of meeting notices, keeping of minutes, identifying and maintaining documents used at the meeting, and executive sessions.

Excerpts of the Town of Berne policy have been excerpted here, but may be out of date with the current Town policy. Users shall read and follow the most up to date policy regarding meetings conducted by remote participation

6.1.2 Definition of Videoconference: Videoconference is defined as communication conducted between two (2) or more persons in which one (1) or more of the participants communicate with the other participants through duplex audio and video signals transmitted over a telephone network, a data network, or the Internet.

6.1.3 Notice of Videoconference Meeting: All meetings must adhere to New York State laws regarding public notice of the location, date, and time the meeting can be viewed or heard.

6.1.4 Setup for Videoconference: Town of Berne municipal boards and committees' meetings shall be conducted at the Berne Community Center where conditions permit, or, as directed by the Town Supervisor. Meetings will be established by virtual presence by the use of the Town of Berne's Zoom or other Videoconferencing account.

All public meetings conducted via videoconference shall be recorded and posted on the Town of Berne website for public viewing.

6.1.5 Conduct of Videoconference Meeting: A quorum of official meeting participants must be online to hold the videoconference with two-way audio and video available for each participant.

The public is NOT permitted to comment during videoconference meetings unless asked to join by the facilitator.

The board chairperson taking public comments shall ensure that individuals providing public comment state his or her name and Town of residence. Public comments should be limited to 3 minutes, including reading of public comments submitted prior to the meeting. Each board chairperson taking public comments shall also uphold and enforce a standard of respect and courtesy towards the board/committee members and Town staff. These standards include but are not limited to waiting to be recognized by the chair, not interrupting another speaker, heckling, profanity or other forms of harassment, the posting of inappropriate video, signs and other media that fails to meet the basic meeting standards of courtesy and respect. The board/committee chairperson is authorized, if necessary, to mute, remove or otherwise restrict an attendee's participation if an attendee fails to meet the basic meeting standards of courtesy and respect.

Part 7. ANTI-RETALIATION

7.1. No Discrimination

No employer, or his or her agent, or person, acting as, or on behalf of a hiring entity, or the officer or agent of any entity, business, corporation, partnership, or limited liability company, shall discriminate, threaten, retaliate against, or take adverse action against any employee for:

- 7.1.1 Exercising their rights under this section or under the applicable airborne infectious disease exposure prevention plan;
- 7.1.2 Reporting violations of Section 218-b of the Labor Law, or a plan adopted under this section to any state, local, or federal government entity, public officer or elected official; **a.** For the purposes of this paragraph an employee shall be deemed to have reported a violation if they reasonably believe, in good faith, that a violation has occurred.
- 7.1.3 Reporting an airborne infectious disease exposure concern to, or seeking assistance or intervention with respect to airborne infectious disease exposure concerns, to their employer, state, local, or federal government entity, public officer or elected official; or
- 7.1.4 Refusing to work where such employee reasonably believes, in good faith, that such work exposes him or her, or other workers or the public, to an unreasonable risk of exposure to an airborne infectious disease due to the existence of working conditions that are inconsistent with laws, rules, policies, orders of any governmental entity, including but not limited to, the minimum standards provided by the model airborne infectious disease exposure prevention standard, provided that the employee, another employee, or employee representative notified the employer, of the inconsistent working conditions and the employer failed to cure the conditions or the employer had or should have had reason to know about the inconsistent working conditions and maintained the inconsistent working conditions.
- 7.1.5 Notification of a violation by an employee may be made verbally or in writing, and without limitation to format including electronic communications.
- 7.1.6 To the extent that records exist between the employer and employee regarding a potential risk of exposure, without limitation to format including electronic communications, they shall be maintained by the employer for two years after the conclusion of the designation of a high risk disease from the Commissioner of Health.