

**Initiative and Referendum Petition
“North Plainfield Sunshine Act”**

We the undersigned, registered voters of the Borough of North Plainfield, Somerset County, New Jersey, under the initiative and referendum power granted by N.J.S.A. 40:69A-184 et. seq., hereby propose the following Ordinance:

1. Short title: This Ordinance may be cited as the “North Plainfield Sunshine Act” and is referred to below as the “Act.”
2. Findings: The people of the Borough of North Plainfield find that good government depends on knowledgeable citizens who have broad access to government meetings and who have ready and inexpensive access to a wide range of government information. Such access enables them to participate fully in public affairs, help determine governmental priorities and to hold their public officials accountable. Inadequate or delayed public access to meetings and information allows corruption to flourish undetected and unpunished. Government secrecy allows backroom deals to set public policy in the interest of the few rather than the many. It is therefore the policy Borough of North Plainfield to (a) make agendas, minutes, resolutions, ordinances, and certain other records promptly available to the public on the Internet as specified in Section 11 (b) have meaningful electronic versions of other government records available at an affordable cost, (c) make photocopies and other records available at an affordable cost (d) to open more meetings of government officials to the public, (e) to increase the opportunities for public participation at all government meetings and to make such participation more meaningful and (f) to otherwise endeavor to make the Borough of North Plainfield’ government a model of openness and transparency. It is understood, accepted and intended by the people of the Borough of North Plainfield that this Act will impose responsibilities upon the Borough’s officials and employees greater than what is required by the Sen. Byron M. Baer Open Public Meetings Act and the Open Public Records Act.
3. Scope: This Act shall apply to the Mayor and Borough Council and to all authorities, boards, commissions, committees or other instrumentalities created by or within the Borough, any multi-member committees or subcommittees within them, and all duly constituted advisory boards and bodies. Such shall be referred to as “bodies.”
4. Meetings: All meetings of bodies, except as noted in section 7, shall be open to the public and subject to the adequate notice and other provisions of the Open Public Meetings Act and this Act, and the public may be excluded from meetings only when permitted by N.J.S.A. 10:4-12(b) strictly construed in favor of open meetings. All meetings of all bodies shall be conducted in accordance with the most recent edition of Robert’s Rules of Order except when special rules of procedure, which were previously adopted and filed with the Clerk, hold otherwise.
5. Notice: Advance public notice of all bodies’ regular, special or rescheduled meetings, but not emergency meetings called in accordance with N.J.S.A. 10:4-9, shall be given at least three (3) business days prior to the meeting and shall include the time, date, location and to the extent known, the agenda of the meeting, and shall accurately state whether formal action may or may not be taken. This shall be done even if the body has published an annual listing of its regular meetings in accordance with N.J.S.A. 10:4-18. No ordinance shall be introduced or given a second reading and no resolution or substantive motion shall be passed at a regular, special or rescheduled meeting unless it is referenced in the version of that meeting’s agenda that was published at least three (3) business days prior to the meeting. Urgent matters shall be addressed at emergency meetings called in accordance with N.J.S.A. 10:4-9.
6. Public Participation: A general public comment session shall be provided near the beginning and end of each public meeting of each body. Each person wishing to speak shall be provided with five (5) minutes, and the length of the public comment session shall be one (1) hour provided there are sufficient speakers to fill this time. The length of the public comment session may be extended beyond one (1) hour at the body’s discretion. Separate public comment sessions shall be provided prior to final action being taken on any ordinance, resolution or substantive motion and each person wishing to speak shall be provided with five (5) minutes and shall limit his or her comments to the matter at hand. The time clock shall be stopped during any discussions among the mayor, council, and/or administration. The time clock shall also be stopped during any discussions and/or responses among/between the public, mayor, council and administration. The speaker shall be allowed a rebuttal time of two (2) minutes unless additional time is granted.
7. Closed meetings: Any resolution authorizing any meeting from which the public is excluded, in addition to the provisions of N.J.S.A. 10:4-13, shall (a) describe the topic or topics to be discussed or acted upon as specifically as possible without undermining the purpose for holding the nonpublic meeting; (b) state the precise legal basis or bases for excluding the public; and (c) be read aloud at the public meeting at which it is passed.
8. Recording meetings: The Clerk or his or her designee shall sound record all meetings of all bodies, including emergency meetings and meetings to which the public is excluded, and shall retain the recordings for a period of six years. Any member of the public may also make his or her own audio or video recordings of any public meeting unless the body holding the meeting can demonstrate that the recording is unduly disruptive. Within eighteen (18) months after the effective date of this Act, the Clerk shall have established a system under which the audio recordings of all meetings occurring after implementation of the system shall be maintained as electronic files that can be listened to using generally available computer hardware and software. All sound recordings maintained by the Clerk

shall be public records, except that recordings of nonpublic meetings may be redacted to the same extent as the minutes of those meetings.

9. Minutes: Meeting meetings shall be comprehensive and shall report the identity of every member of the public who spoke and a synopsis of what was said. Minutes of public meetings shall be publicly available in draft form, and marked as such, within five (5) business days after the meeting. Minutes of nonpublic meetings shall be publicly available in draft form, and marked as such, within ten (10) business days after the meeting, except that text may be excised or redacted from the minutes only to the extent necessary to prevent the purposes of the nonpublic meeting from being undermined. Every redaction shall be accompanied by a written, detailed explanation sufficient to enable the public to assess the applicability of the privilege or protection asserted. Minutes shall be approved at the following meeting.
10. Periodic review of nonpublic meeting minutes: Each body shall, in April and October, review its nonpublic meeting minutes and determine whether the passage of time or the occurrence of events permit public disclosure of matter previously redacted or excised from the body's nonpublic meeting minutes and sound recordings. The results of each review shall be announced at a public meeting immediately after the review takes place and shall be recorded in the minutes of that meeting.
11. Records to be made available on the Internet: The Borough shall cause an Internet site to be created. The Internet site shall contain the material specified in this Act and shall be laid out in a logical, intuitive manner. No password or user name shall be required and no other restriction imposed that would prevent a user from accessing the information on the site anonymously and at no cost. No record on the Internet site shall be removed prior to the time, if any, when the corresponding non-Internet version of that record is permitted by law to be destroyed. Items in subsections a through e below and all listings and rosters shall be made available in text-searchable PDF versions. All other documents, unless otherwise indicated, shall be scans of the paper versions converted into PDF format. The following records, created or maintained by any body shall be made available to the public on the Internet site as follows:
 - a) All official advertisements as that term is defined by N.J.S.A. 35:1-1 et seq. shall be made available on the Internet site at the same time they are distributed to the newspapers designated to receive such advertisements.
 - b) All meeting notices and meeting agendas and all supporting documentation not subject to closed meetings or executive sessions, as provided for in section 5 above, shall be made available on the Internet site at least three (3) business days prior to the meeting
 - c) All proposed resolutions and proposed ordinances and revisions thereto shall be made available on the Internet site in draft form, and designated as such, within five (5) business days after they are approved as to form by the Borough attorney, but not less than three (3) business days, before the public meeting at which they will be first considered or discussed. Resolutions and ordinances passed or enacted shall be designated as such and made available on the Internet site within 48 hours after being passed or enacted with their titles arranged in chronological order with hyperlinks to each resolution or ordinance.
 - d) All meeting minutes shall be prepared and shall be made available on the Internet site within the time periods set forth in section 9 above. If the minutes as approved are identical to the draft version, the draft designation on the Internet site shall be replaced with a designation indicating that the minutes are approved within three (3) business days after approval. Otherwise, the draft version of the minutes shall remain and the approved version, designated as such, shall be made available on the Internet within three (3) business days after approval. Revised versions of nonpublic meeting minutes shall be made available on the Internet site within three (3) business days after the decision to disclose previously redacted matter.
 - e) An up-to-date compilation of the Borough's Ordinances. Hyperlinks shall also be provided to text-searchable PDF versions of any non-proprietary documents that are adopted by reference in any Ordinance
 - f) A list of nonpublic meetings for which minutes have not yet been entirely disclosed to the public shall be made available on the Internet site. Each such nonpublic meeting listed on the Internet site shall be linked to the resolution required by the Open Public Meetings Act authorizing the executive or closed session.
 - g) A current roster of all Local Government Officers of the Borough as that term is defined by Local Government Ethics Law, 40A:9-22.1 et seq. The roster shall list each officer's full name, position, office telephone number and email address, term expiration date, annual remuneration as reported to Internal Revenue Service for the most recent calendar year and a recent photograph. Email addresses, while visible to web site visitors, shall be masked to attempt to defeat automated processes used by spammers to harvest email addresses listed on the Internet.
 - h) A current roster, updated at least monthly, of the members of each body providing the full name of the member and term expiration date.

- i) A current roster of the names and addresses, updated at least quarterly, of the officers and members of the Borough's municipal committees of political parties as that term is defined by Title 19 of the New Jersey Statutes.
 - j) A listing of each Tort Claim made against the Borough, or any of its officers, employees or bodies. Each listing shall be made available to the public on the Internet within three (3) business days after filing. Each listing shall include (i) the name and address of the claimant, (ii) the names and titles of any employees or officials who are alleged to have caused the injury or loss; (iii) the date and place of the event or transaction giving rise to the claim; (iv) the general description of the injury, damage or loss, as specified by N.J.S.A. 59:8-4(d), or a summary if the description contained in the claim exceeds 250 words.
 - k) Exports of all data files containing full, unencrypted and password unprotected data from the Borough's financial/accounting software program or suite of programs as well as descriptions of each field of data within each data table so that members of the public experienced in relational databases can access, query and produce reports on the exported data files with generally available database software, such as Microsoft Access. The exported data files shall suppress fields containing sensitive data, such as social security numbers. However, a detailed description of the suppressed data shall be provided for each suppressed field. Updated data files, including activity through the end of the current month, shall be made available on the Internet site monthly, in the same format, by no later than the tenth day of the following month. Also available on the Internet site shall be a listing of URL links to third party websites whose owners have notified the Clerk that their websites offer programming that permits members of the public to search, query or generate financial reports derived from the data files.
12. Information to be Available in Electronic Format: The Administrator, Clerk, and other public officers shall arrange the electronic (i.e. computerized) government records under his or her control so that electronic copies of the records' data can be promptly and inexpensively provided to the public on widely used media and in meaningful formats that can be accessed through widely used and publicly available computer hardware and software. For any electronic records that contain data that may be lawfully disseminated to the public as well as data that may be lawfully restricted from public view, methods shall be developed to allow the public data to be easily separated from the confidential data. Within ninety days after the effective date of this Ordinance and annually thereafter, each person subject to this section shall file a report with the Clerk setting forth an inventory of the classes of records under his or her control and his or her progress in complying with this section and such reports will be public records.
 13. No Confidential Settlements: Neither the Borough nor any of its officers, employees, attorneys, insurers or other agents shall settle or adjust a lawsuit in which the Borough or any of its employees or officials are parties if the settlement agreement requires the amount and terms of the settlement or adjustment to remain confidential. Whenever such a lawsuit is settled or adjusted, the Mayor or his or her designee shall publicly report the terms of settlement at the next Regular Council meeting and shall forthwith file a copy of the settlement agreement with the Clerk where it shall remain on file as a public record.
 14. Fee for Photocopies and other Records: The fee for providing photocopies of records, including police reports and computer printouts, shall be five cents per copy. The fee for audio tapes, video tapes and CD-ROMs shall be one (1) dollar, two (2) dollars and one (1) dollar apiece, respectively. Copies of maps shall be available at one (1) dollar per square foot or part thereof. If any record is requested to be sent through the mail, cost of postage shall be added to the fee. If any record is requested to be faxed to any recipient within the United States, a cost of five cents per page shall be added to the fee. Any other records shall be made available at the cost of production, not including time and overhead expenses. All fees shall be prepaid before the record is issued. Nothing herein is intended to prevent the Clerk from assessing a higher charge when (a) the actual cost of production (i.e. the materials and supplies used to make a copy of the record, not including the cost of labor or other overhead expenses associated with making the copy) exceeds the fees provided for by this subsection, or (b) a special service charge is authorized by the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. All materials requested by the applicant must be received by the applicant within seven (7) business days. Any denial to provide said material or information must be made in writing with an explanation.
 15. Enforcement: Any person who prevails in a civil action to enforce any provision of this Act, or whose complaint is instrumental in obtaining relief, shall be entitled to costs and a reasonable attorney fee, as determined by the Court, to be paid by the Borough of North Plainfield
 16. Effective Date and Scope: This Act shall take effect on the sixtieth day after enactment and shall be published as required by law. Minutes, agendas, resolutions and enacted ordinances created on or taking effect after January 1, 2002 but before the effective date of this Act shall be made available to the public on the Internet within one hundred (100) eighty days after enactment.
 17. Construction: This act is remedial and shall be liberally construed to effectuate its findings and purposes.

18. Saving Clause: If any portion of this Act shall be declared to be unconstitutional, invalid or inoperative, in whole or in part, by a court of competent jurisdiction, such portion shall, to the extent that it is not unconstitutional, invalid or inoperative, remain in full force and effect, and no such determination shall be deemed to invalidate the remaining portions of this Act.
19. Repealer: All ordinances inconsistent with the provisions of this Act are repealed to the extent of such inconsistency.

The following citizens constitute the Committee of Petitioners (N.J.S.A. 40:69A-186)

Frank d'Amore, 40 Willow Avenue, North Plainfield, NJ 07060
Robert Gatto, 72 Willow Avenue, North Plainfield, NJ 07060
Gary Lewis, 110 Jackson Avenue, North Plainfield, NJ 07060
Antoinette Rinehart 93 Wilson Avenue, North Plainfield, NJ 07060
Thalia Saloukas, 280 Watchung Avenue, North Plainfield, NJ 07060
Bart Thomas, 236 Watchung Avenue, North Plainfield, NJ 07060

1. Sign: _____ **Print Name:** _____

Residence: _____ North Plainfield, NJ

2. Sign: _____ **Print Name:** _____

Residence: _____ North Plainfield, NJ

3. Sign: _____ **Print Name:** _____

Residence: _____ North Plainfield, NJ

4. Sign: _____ **Print Name:** _____

Residence: _____ North Plainfield, NJ

5. Sign: _____ **Print Name:** _____

Residence: _____ North Plainfield, NJ

6. Sign: _____ **Print Name:** _____

Residence: _____ North Plainfield, NJ

7. Sign: _____ **Print Name:** _____

Residence: _____ North Plainfield, NJ

8. Sign: _____ **Print Name:** _____

Residence: _____ North Plainfield, NJ

9. Sign: _____ **Print Name:** _____

Residence: _____ North Plainfield, NJ

10. Sign: _____ **Print Name:** _____

Residence: _____ North Plainfield, NJ

Affidavit of Circulator (N.J.S.A. 40:69A-186)

_____ certifies that 1) s/he and only s/he personally circulated the foregoing paper; 2) that all the signatures appended thereto were made in his or her presence; and 3) that s/he believes them to be the genuine signatures of the persons whose names they purport to be.

Sworn & Subscribed before me this
_____ day of _____, 20_____

Circulator's Signature

Notary Public