Public Information Act Requests are to be submitted to the contact persons listed below:

1. Municipality: Town of Perryville
2. Denise Breder, Town Administrator
   C/O Jackie Sample, Town Clerk
3. P.O. Box 773
   (515 Broad Street)
   Perryville, MD 21903
4. Phone: (410)642-6066
   Fax: (410)642-6391
5. Email: Townhall@perryvillemd.org
6. Website: www.perryvillemd.org

For Police Department Records Only, submit Public Information Act Requests as follows:

1. Town of Perryville
   Police Department
2. Al Miller, Police Chief
   C/O Kim Crew, Administrative Assistant
3. P.O. Box 511
   (448 Otsego Street)
   Perryville, MD 21903
4. Phone: (410)642-3725
   Fax: (410)642-3724
5. Email: kcrew@perryvillemd.org
6. Website: www.perryvillemd.org/police-department

Updated: January 29, 2016

Town Commissioners of Perryville
515 Broad Street, P.O. Box 773
Perryville, Maryland 21903-0773
(410) 642-6066

Information Request Form

Date of Request: _____

Name: _____

Address: _____

Daytime Phone Number: _____

Information Requested (Please be Specific)

_____

_____

_____

_____

_____

_____

There will be a charge for all copies ($0.50 per page). Our office will process requests as quickly as possible and contact you when the information is ready to be picked up. Payment for copies is required upon receipt. Please note that all requests for information must be approved by the Mayor or Town Administrator.

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FOR OFFICE USE ONLY
Approved _____

Denied _____ _____

Town Administrator/Mayor

Information to be picked up on: _____

Amount due: _____

The Maryland Public Information Act (MPIA) for Municipal Officials

By Kevin J. Best, Manager, Research & Information Management, Maryland Municipal League

The MPIA (§§10-611 to 10-628 of the State Government Article of the *Annotated Code of Maryland*) is a state statute that covers all political subdivisions of the State. MPIA is similar to the federal Freedom of Information Act, which applies to the federal government. **The purpose of the law is to ensure that all persons have the right to obtain access to information about the affairs of government with minimal cost and delay to the requestor while protecting against unwarranted invasions of privacy.** Except for several exceptions specified in the law, all documents or records created by a local government must be shared when requested with whomever requests them without explanation for their use.

MPIA defines the person (or agency) that makes a public information request as an "applicant." The person who has legal responsibility for a public record, usually the mayor or manager, is called an "official custodian." Other municipal officials or employees, often the municipal clerk or department head, can also be designated as "custodians." Although a custodian can deny inspection of records, the official custodian is authorized to decide whether to seek court action to protect records from disclosure and to establish reasonable rules and fee schedules pertaining to inspection and copying public records. (The Office of Attorney General has prepared model regulations published as an appendix in its manual cited below.)

A public record can consist of a card, computer record, correspondence, drawing, film, form, map, photo or recording. Public information includes email that is related to public business, police records including arrest logs and written complaints, voter registration records, 911 emergency recordings (except for personal medical and psychological information), marriage records, and nonconfidential portions of management letters. Public information does not include an image of a private individual or an individual's signature (i.e. driver's license information).

According to the law, a person wishing to inspect or obtain a copy of a public record must submit a written application to the custodian; however, the municipality may not want to demand a written request if the record is freely available to the public. In order to prevent unnecessary interference with official town/city business, an official custodian can adopt reasonable rules consistent with the Act about when and how an applicant can inspect or obtain copies of public records. The application must sufficiently identify the desired records with a reasonable description enabling the custodian to locate the records. The custodian is not obligated to create written answers to public information requests; nor is s/he required to unreasonably pour through records and files in an attempt to substantially comply with a vague or undocumented request.

If a custodian is not responsible for a requested record s/he must inform the applicant within ten working days and, if known, also inform the applicant of the name of the proper custodian and the record's possible location. **A custodian has 30 days in which to grant or deny an application.** However, if it is clear that the information should and can readily be provided then the application must be granted immediately. If denied, the custodian must immediately inform the applicant and must follow up in

writing (usually after consulting with the municipal attorney), giving the reasons and authority for the denial and any remedies available to the applicant to appeal the denial.

If reasonable, the custodian must immediately allow inspection of that portion of the record that can be separated from the confidential portion. A custodian does not have to create a completely new document or run a separate computer program query to provide the information. The custodian can also provide the record in the format (i.e. electronic or paper) of his or her choice, but under the spirit of the Act the custodian should try to accommodate the applicant if there is no significant cost to the municipality. A request that requires removing confidential information from a very large public document may not be reasonable unless the applicant is charged for the labor involved and accepts that the task be accomplished over a period of time (within the 30 day limit) that does not unreasonably interfere with normal government operations. An extra thirty-day extension is allowed if agreed to by the applicant. Furthermore, if separating disclosable information from non-disclosable information in a record would create a product with relatively little useful information, the custodian can deny the application.

If, after a good faith effort, it is still impractical for the custodian to comply with the Act's time limits and the applicant refuses to grant an extension, the custodian should make the best good faith response possible by: (1) allowing inspection of any portion of the records that are currently available; and (2) informing the applicant, within the imposed time limit, of the reasons for the delay and an estimated date when the agency's review will be complete.

A custodian must deny access to a public record if required by state statute, federal statute (and regulations) and Maryland court rules or a court order. This includes "privileged or confidential" records (i.e. attorney-client, attorney work product and confidential executive advisory communications). Specifically, inspection of the following records must be denied:

Adoption records	**Hospital records**
Welfare records	**Student records** (except by supervising public official, discreet information is allowed to certain parties)
Letters of reference	**Risk Based Capital Reports** (filed with Insurance Commissioner)
Circulation records (individual library)	**Transit Records** (generated at transit electronic toll systems; except by attorney of record)
Gifts to museums or archives when requested	**Higher education investment contracts**
Retirement records (except by person in interest, guardian, beneficiary or police)	**Recorded images from traffic control signal monitoring systems**
Police traffic accident and other reports (requested by attorneys for marketing purposes)	**Motor vehicle records** (unless with personal consent or by federal law or state law)
Personnel records (job application, performance evaluation, scholastic achievement information except when requested by supervisor or employee)	**Records pertaining to arrest warrants** (includes charging documents)

Certain types of information within public records must also be denied release to the public. **Custodians cannot release the following specific information** found within a public record:

- ☹ **Medical or physiological information** (other than to the person that is the subject of the record or an autopsy by a medical examiner)
- ☹ **Sociological information** (if the custodian has adopted such rules concerning its use for the study of social behavior)
- ☹ **Commercial information** (including trade secrets, confidential commercial, financial, or geological information)
- ☹ **Public employees** (a custodian may deny release of employee's home address & telephone number unless the employee allows its release or the employer deems an overriding public interest.)
- ☹ **Financial information** (a custodian must deny information concerning assets, income, liabilities, net worth, etc. of individuals; however, requests for public official or employee salary information cannot be denied.)
- ☹ **Information systems** (to ensure security of computers)
- ☹ **Licensing records** (occupational and profession information must be denied except for name, business address and telephone number, education or occupational background, qualifications, disciplinary findings and other information.)

If inspection would be "contrary to public interest," a custodian, unless required by other law, is **permitted to make denials** of inspection of a part of a public record as indicated below:

1. **Interagency & intra-agency documents** (privileged, pre-decisional letters or memos of the executive branch expressing opinion that would inhibit candor in the decision making process if disclosed or would not be available by law to a private party anticipating litigation against the municipality.)
2. **Examinations** (scoring keys and test results, except inspection only of results by the examinee after the exam)
3. **Research projects** (conducted by the municipality except for information on the name of the project, costs, and due dates)
4. **Real property information** (all information until title is acquired; any appraisal must be released to the owner)
5. **Investigations** (records or intelligence of the city attorney or police department for law enforcement purposes)

Whenever it is arguable that a record should be released because it might adversely affect an individual, the custodian should usually contact the person potentially affected by release, unless prohibited by law, so that the person may advise the custodian of his or her views and potentially seek judicial intervention to protect the record from disclosure. The person potentially affected by release of information may obtain a court protective order preventing the custodian from releasing the information.

Whenever the MPIA allows release of public information but the official custodian believes that disclosure would "cause substantial injury to the public interest (monetary or legal interests of the municipality)" **the official custodian can temporarily deny**

public inspection in order to obtain a court ruling to continue the denial. Within ten working days of a temporary denial, the official custodian must file a petition with the Circuit Court for a decision and the applicant is allowed to make an appearance.

An applicant that is allowed to inspect a public record under MPIA can also obtain a copy of that record. If a small municipality does not have a copy machine, reasonable arrangements must be made to copy the record elsewhere; however, the custodian must retain custody of the record. Unless another law sets the fee, **a reasonable fee can be charged** for the search, preparation and reproduction costs to the municipality; however, **the fee cannot include the cost for the first two hours needed to search for the record.** The fee can include the costs for supervising the making of a copy including the cost of obtaining facilities for copying as well as the costs incurred in making the record conform to the law if any portion is to be withheld. The fee may also include postage or delivery costs. Payment for copies can be required either before or after production of the requested record. The municipality, if requested by the applicant, can give a full or partial waiver of the fee. If granting a waiver, the custodian should consider among other factors (i.e. public benefit and a possible chilling effect on the Press) the applicant's ability to pay and whether a waiver would be in the public interest.

If denied an application for a public record, the applicant can choose to submit to a municipal administrative hearing, if available, or sue the custodian in the Circuit Court in either the county where the record resides or in the applicant's home county. The defendant-custodian then has thirty days to file an answer to the charge and is required to show sufficient reason why the denial should continue. If necessary, the judge can examine the record in chambers to determine whether it should be withheld. The courts are required to expedite the case and can provide a judgment ordering the record to be released. The custodian can be punished for contempt of court if the record continues to be withheld despite court order.

A municipality can be held responsible for any actual monetary loss caused by intentionally depriving the applicant of the entitled public record. If the official custodian knew or should have known that s/he was violating the Act or fails to petition the court for an order to continue a temporary denial, s/he can be held liable (although indemnified under the Local Government Tort Claims Act) for actual and punitive damages plus attorney's fees in some cases.

A custodian can also be punished criminally for intentionally violating the MPIA or failing to petition the court for a ruling after temporarily denying inspection of public information. Also, a person that improperly obtains public information by false pretenses, bribery or theft can be prosecuted under the MPIA. The penalty for violating MPIA carries a $1,000 fine and is considered a misdemeanor.

For more information, the *Public Information Act Manual* (7th ed. 1997) [40 pages plus appendices] published by the Maryland Office of the Attorney General may be downloaded from http://www.oag.state.md.us/Opinions/index.htm or contact MML's Research Department.