

Bill No. 23-12
Concerning: Administration – Open
[[Government]] Data
Revised: 12/4/2012 Draft No. 6
Introduced: July 31, 2012
Enacted: December 4, 2012
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Riemer and Andrews, Council President Berliner, and Councilmembers
Leventhal, Floreen, Navarro, and Ervin

AN ACT to:

- (1) require the County to make certain public data sets available on a single web portal on the internet;
- (2) require the ~~[[Department of Technology Services]]~~ County to develop a technical standards manual for publishing public data sets;
- (3) require the County to develop ~~[[a Compliance]]~~ an Open Data Implementation Plan;
- (4) require the County to include on the single web portal, a website that includes certain information on requests submitted to the County under the Maryland Public Information Act and the County's response to that request;
- (5) require the Chief Administrative Officer to report to the Council on the Executive Branch's ~~[[compliance with]]~~ responses to the Maryland Public Information Act; and
- (6) generally amend County law regarding administration.

By adding

Montgomery County Code
Chapter 2, Administration
Article XIV, Open ~~[[Government]]~~ Data
Sections 2-152, 2-152, 2-153, 2-154, 2-155, 2-156, 2-157, ~~[[and]]~~ 2-158, and 2-159

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[[Single boldface brackets]]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 Sec. 1. Article XIV (Sections 2-152, 2-152, 2-153, 2-154, 2-155, 2-156,
2 2-157, [[and]] 2-158, and 2-159) is added to Chapter 2 as follows:

3 Article XIV. Open [[Government]] Data.

4 2-152. Title.

5 This Article is known as the "Montgomery County Open [[Government]] Data
6 Act."

7 2-153. Definitions.

8 In this Article, the following words and phrases have the following meanings:

9 Agency means any department or office[[, department, division, board,
10 committee, commission]] of the County government.

11 Data means the final version of digital information:

12 (a) (i) in a structured, statistical, or alphanumeric form (i.e., list,
13 table, graph, chart, or other non-narrative form) that can
14 be digitally transmitted or processed; or

15 (ii) in an unstructured, factual, or content form (i.e., fact
16 sheet, memorandum, press release, compliance guidance,
17 manual, or other narrative form) that can be digitally
18 transmitted or processed; and

19 (b) regularly created or maintained by or on behalf of and owned
20 by an agency that records a file, measurement, transaction, or
21 [[determination]] final decision related to the mission of an
22 agency.

23 Data does not include any information provided to an agency by another
24 government entity; or any image file, such as a design, drawing, map, photo,
25 or scanned copy of an original document. [[Data includes statistical or
26 factual information about the image file and geographic information system
27 data.]]

28 [[Department means the Department of Technology Services.]]

29 [[Determination means any agency’s final decision about a person,
 30 including:

- 31 (a) eligibility for services or benefits;
- 32 (b) issuing a permit;
- 33 (c) registration, certification and licensing; and
- 34 (d) liability for civil and criminal penalties.]]

35 Maryland Public Information Act or Act means the Maryland Public
 36 Information Act, codified at Sections 10-611 through 10-630 of the State
 37 Government Article of the Maryland Code.

38 Measurement means to quantify any characteristic of an observable event,
 39 occurrence, or object by comparison to a reference standard.

40 Open Data Implementation Plan means a plan developed by the Chief
 41 Administrative Officer to implement this Article and as further described in
 42 Section 2-158.

43 Open standard means a technical standard developed and maintained by a
 44 voluntary consensus standards body that is available to the public without
 45 royalty or fee.

46 Public data set means [[a comprehensive collection of interrelated data that
 47 is available for inspection by the public under any provision of law and is
 48 maintained on a computer system by, or on behalf of, an agency.]] data
 49 identified as eligible for publication by the Open Data Implementation Plan.

50 Public data set does not include any portion of a data set that is not subject
 51 to disclosure under any Federal or State law, including the Maryland Public
 52 Information Act.

53 Technical standard means:

- 54 (a) the common and repeated use of a rule, condition, guideline, or
 55 characteristic for any product or related process and production
 56 method, and related management systems practice; and
- 57 (b) (1) the definition of a term;
 58 (2) classification of a component;
 59 (3) delineation of a procedure;
 60 (4) specification of dimension, material, performance,
 61 design, or operation;
 62 (5) measurement of quality and quantity in describing any
 63 material, process, product, system, service, or practice;
 64 (6) test method and sampling procedure; or
 65 (7) description of fit and measurement of size or strength.

66 Transaction means any interaction between an agency and any person
 67 related to the mission of an agency.

68 Voluntary consensus standards body means a domestic or international
 69 organization that develops and maintains a technical standard that uses a
 70 transparent deliberative process, permits the participation of any party, and
 71 achieves general consensus, although not necessarily unanimity, of the
 72 participating parties, including a process to attempt to resolve any difference
 73 in viewpoint.

74 **2-154. Public data set availability.**

75 (a) [[An agency]] The County must make [[a]] some public data sets
 76 available on a single web portal on the Internet within 1 year after this
 77 Article takes effect. Every agency must make at least one public data
 78 set available to be published on a single web portal within the
 79 timeframe prescribed by the Open Data Implementation Plan. The
 80 Open Data Implementation Plan must assign and prioritize by

81 subcategories the order in which public data sets should be published.
 82 To prioritize public data sets in the Open Data Implementation Plan,
 83 the Chief Administrative Officer must consider whether information
 84 embodied in the public data set:

- 85 (1) can be used to increase agency accountability and
 86 responsiveness;
- 87 (2) improves public knowledge of the agency and its operations;
- 88 (3) further the mission of the agency;
- 89 (4) creates economic opportunity; or
- 90 (5) responds to a need or demand identified by public consultation.

91 [[If an agency cannot make a public data set available, the agency
 92 must report to Executive and Council:

- 93 (1) which public data set it is unable to make available;
- 94 (2) the reasons why the agency cannot make the public data set
 95 available; and
- 96 (3) the date by which the agency expects the public data set to be
 97 available on the single web portal.]]

98 (b) Any published public data set that an agency makes available on the
 99 Internet must be accessible through a single web portal that is linked
 100 to www.montgomerycountymd.gov or any successor website
 101 maintained by, or on behalf of, the County.

102 (c) A public data set must be made available as specified in technical
 103 standards [[identified by Method 2 regulation]].

104 (d) A public data set must be published in a format that permits
 105 automated processing and must make use of appropriate technology to
 106 notify the public of all updates.

- 107 (e) Once published, a [[A]] public data set must be updated as often as is
 108 [[necessary to preserve the integrity and usefulness of the data set to
 109 the extent that the agency regularly maintains or updates the public
 110 data set]] required by the Open Data Implementation Plan.
- 111 (f) A published public data set must be made available without any
 112 registration or license requirement or restriction on use. However, the
 113 [[Department]] County may require a third party providing to the
 114 public any public data set, or application utilizing that data set, to
 115 explicitly identify the source and version of the public data set and
 116 describe any modification made to that data set. In this Section,
 117 registration or license requirement or restriction does not include any
 118 measure required to:
- 119 (1) assure access to a public data set;
 120 (2) protect the single web site housing a public data set from
 121 unlawful abuse or an attempt to damage or impair use of the
 122 web site; or
 123 (3) analyze the type of data being used to improve service delivery.
- 124 (g) A published public data set must be accessible to external search
 125 capabilities.
- 126 (h) Nothing in this Article prohibits an agency from: (1) voluntarily
 127 disclosing information not otherwise defined as data; or (2) making
 128 voluntarily disclosed information accessible through the single web
 129 portal.
- 130 (i) [[After a public data set has been available on the web portal for 6
 131 months, an agency must not change or terminate collection of data or
 132 remove the data set from public access without the approval of the
 133 Chief Administrative Officer or the Chief Administrative Officer's

134 designee.]] The Open Data Implementation Plan must address when
 135 and how an agency may change or terminate collection of data or
 136 remove the public data set from public access.

- 137 (j) [[The Chief Administrative Officer must assign appropriate staff to
 138 manage the public data sets.]] The Open Data Implementation Plan
 139 must address appropriate staffing to manage the published public data
 140 sets.

141 **2-155. Web portal administration.**

- 142 (a) The [[Department may take reasonable measures]] Open Data
 143 Implementation Plan must address measures to maintain bandwidth
 144 availability of the web portal.

- 145 (b) The [[Department]] County must conspicuously publish the open data
 146 [[legal]] policy in Section 2-156 on the web portal.

- 147 (c) The [[Department]] County must implement [[an on-line forum]] a
 148 mechanism to solicit public feedback and encourage public discussion
 149 on open data policies and public data set availability on the web
 150 portal.

- 151 (d) An agency must consider any request that it receives through the [[on-
 152 line forum]] public feedback mechanism to include a particular public
 153 data set when making any determination as to priority for public data
 154 set inclusion on the single web portal. An agency's consideration of
 155 such a request must defer to the priority assigned to publication by the
 156 Open Data Implementation Plan.

157 **2-156. Open data [[legal]] policy.**

- 158 (a) A public data set made available on the web portal is provided for
 159 informational purposes. The County [[does not]] makes no express or
 160 implied warranty as to the completeness, accuracy, content,

161 merchantability, or fitness for any particular purpose or use of any
 162 public data set made available on the web portal[[, and no warranty is
 163 implied with respect to any public data set on the web portal]].

164 (b) The County is not liable for any deficiency in the completeness,
 165 accuracy, content, or fitness for any particular purpose or use of any
 166 public data set, or application utilizing the data set, provided by any
 167 third party.

168 (c) This Article and the Open Data Implementation Plan [[does]] do not
 169 create a private right of action to enforce [[its]] their provisions.
 170 Failure to comply with this Article or the Open Data Implementation
 171 Plan must not result in liability to [[an agency]] the County.

172 **2-157. Internet data set policy and technical standards.**

173 (a) Within 180 days after this Article takes effect, the [[Department]]
 174 County must prepare and publish a technical standards manual for the
 175 publishing of a public data set in raw or unprocessed form through a
 176 single web portal by an agency to make public data available to the
 177 greatest number of users and for the greatest number of applications.
 178 The manual:

179 (1) must use open standards for web publishing and e-government,
 180 whenever practicable;

181 (2) must identify the reason why each technical standard was
 182 selected and to which types of data it applies;

183 (3) may recommend or require that data be published in more than
 184 one technical standard; and

185 (4) must include a plan to adopt or utilize a web application
 186 programming interface that permits application programs to

187 request and receive public data sets directly from the web
 188 portal.

189 (b) The [[Department]] County must update the manual as necessary.

190 (c) The [[Department]] County must consult with appropriate voluntary
 191 consensus standards bodies and, when participation is feasible, in the
 192 public interest, and is compatible with agency and departmental
 193 missions, authorities, and priorities, participate with such bodies in the
 194 development of technical and open standards.

195 **2-158. [[Agency]] Open Data [[Compliance]] Implementation Plan.**

196 (a) Within 18 months after this Article takes effect, the [[Department]]
 197 Chief Administrative Officer must [[submit]] issue, via Method (2)
 198 regulation, an Open Data [[a Compliance]] Implementation Plan [[to
 199 the Executive and Council and must make the Plan available to the
 200 public on the web portal. Each agency must cooperate with the
 201 Department in its preparation of the Plan]]. The Plan must:

202 (1) include a summary description of a public data set under the
 203 control of each agency on or after this Article takes effect;

204 (2) prioritize the public data sets for inclusion on the single web
 205 portal on or before December 31, 2018, under the standards
 206 adopted by the [[Department]] County under Section 2-157;
 207 and

208 (3) create a timeline for their inclusion on the single web portal

209 (b) If a public data set cannot be made available on the single web portal
 210 on or before December 31, 2018, the Open Data Implementation Plan
 211 must state the reason why the set cannot be made available, and, to the
 212 extent practicable, the date by which the agency in possession of the

213 public data set believes that it will be available on the single web
 214 portal.

215 (c) [[To prioritize public data sets, an agency must consider whether
 216 information embodied in the public data set:

217 (1) can be used to increase agency accountability and
 218 responsiveness;

219 (2) improves public knowledge of the agency and its operations;

220 (3) further the mission of the agency;

221 (4) creates economic opportunity; or

222 (5) responds to a need or demand identified by public consultation.

223 (d)) No later than July 15, [[2014]] 2015, and every July 15 thereafter, the
 224 [[Department]] Chief Administrative Officer must submit to the
 225 Executive and Council, and post on the web portal, [[an update of]] a
 226 report on the Open Data [[Compliance]] Implementation Plan [[to the
 227 Executive and Council]] until all public data sets to be published have
 228 been made available through a single web portal as required by this
 229 Article. The [[update]] report must [[include]] explain:

230 (1) the specific measures taken to make a public data set available
 231 on the single web portal since the previous [[update]] report;

232 (2) any specific measure that will be taken before the next
 233 [[update]] report;

234 (3) [[an update to]] whether the list of public data sets, [[if
 235 necessary]] outlined in the Open Data [[Compliance]]
 236 Implementation Plan should be updated;

237 (4) [[any change to]] whether the prioritization of public data sets
 238 in the Open Data [[Compliance]] Implementation Plan should
 239 be changed; and

240 (5) [[an update to]] whether the timeline outlined in the Open Data
 241 [[Compliance]] Implementation Plan for the inclusion of a
 242 public data set on the single web portal, [[if necessary]] should
 243 be changed.

244 ~~[[e]]~~ (d) If a previously unidentified public data set cannot be made
 245 available on the single web portal on or before December 31, 2018,
 246 the [[update]] report must explain why it cannot and, to the extent
 247 practicable, specify the date by which the agency in possession of the
 248 public data set believes that the public data set will be available on the
 249 single web portal.

250 **2-15[[8]]9. Public Information Act Responses.**

251 (a) Definitions. In this Section, the following words and phrases have the
 252 following meanings:

253 County means Montgomery County and includes any Executive Branch
 254 department or office and any Legislative Branch [[department or]]
 255 office.

256 Legislative Branch office means any office identified in Section 1A-203
 257 (b), the Board of Appeals, and the Merit System Protection Board.

258 Information request means a request for documents submitted to the
 259 County under the Maryland Public Information Act.

260 (b) The Chief Administrative Officer must identify in the Open Data
 261 Implementation Plan what data elements and a schedule to make
 262 available on the web portal for [[each]] information [[request submitted
 263 to the County under]] relating to the implementation of the Maryland
 264 Public Information Act by [[and]] the County [[County's response to
 265 that request]].

266 (c) The Legislative Branch must post all data elements, as identified by the
 267 Open Data Implementation Plan, on the same single web portal used by
 268 the Executive Branch.

269 [[Except as provided in subsection (d), the web portal must include:

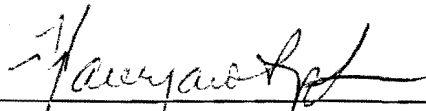
- 270 (1) each information request submitted to the County;
- 271 (2) the date when the County received the information request;
- 272 (3) the status of the information request;
- 273 (4) if the information request was not answered within 30 days after
 274 the County received it, the reason for the delay; and
- 275 (5) the final response to the information request.]]

276 [[d) The Chief Administrative Officer must not include on the web portal
 277 any electronic mail address, home address, or telephone number of any
 278 individual who submitted a responsive document.]]

279 [[e)] (d) The Chief Administrative ~~Officer~~ Officer's report required by
 280 Section 2-158 must ~~report quarterly to the Council on the Executive~~
 281 Branch's compliance with the Maryland Public Information Act The
 282 report must cite the statutory exception that supports each denial or
 283 partial denial of an information request]] include an update on
 284 implementation of this Section.

285

286 *Approved:*

287  12/6/12

Nancy Navarro, President, County Council Date

288 *Approved:*

289 _____
Isiah Leggett, County Executive Date

290 *This is a correct copy of Council action.*

291 _____
Linda M. Lauer, Clerk of the Council Date