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

Article XIV. Open [[Government]] Data.

2-152. Title.

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

2-153. Definitions.

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

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

Data means the final version of digital information:

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

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

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

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

[[Determination means any agency's final decision about a person, including:

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

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

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

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

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

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

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

Technical standard means:
(a) the common and repeated use of a rule, condition, guideline, or characteristic for any product or related process and production method, and related management systems practice; and

(b) (1) the definition of a term;
(2) classification of a component;
(3) delineation of a procedure;
(4) specification of dimension, material, performance, design, or operation;
(5) measurement of quality and quantity in describing any material, process, product, system, service, or practice;
(6) test method and sampling procedure; or
(7) description of fit and measurement of size or strength.

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

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


(a) [[An agency]] The County must make [[a]] some public data sets available on a single web portal on the Internet within 1 year after this Article takes effect. Every agency must make at least one public data set available to be published on a single web portal within the timeframe prescribed by the Open Data Implementation Plan. The Open Data Implementation Plan must assign and prioritize by
subcategories the order in which public data sets should be published.
To prioritize public data sets in the Open Data Implementation Plan, the Chief Administrative Officer must consider whether information embodied in the public data set:

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

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

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

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

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

(d) A public data set must be published in a format that permits automated processing and must make use of appropriate technology to notify the public of all updates.
(e) Once published, a [[A]] public data set must be updated as often as is necessary to preserve the integrity and usefulness of the data set to the extent that the agency regularly maintains or updates the public data set]] required by the Open Data Implementation Plan.

(f) A published public data set must be made available without any registration or license requirement or restriction on use. However, the [[Department]] County may require a third party providing to the public any public data set, or application utilizing that data set, to explicitly identify the source and version of the public data set and describe any modification made to that data set. In this Section, registration or license requirement or restriction does not include any measure required to:

1. assure access to a public data set;
2. protect the single web site housing a public data set from unlawful abuse or an attempt to damage or impair use of the web site; or
3. analyze the type of data being used to improve service delivery.

(g) A published public data set must be accessible to external search capabilities.

(h) Nothing in this Article prohibits an agency from: (1) voluntarily disclosing information not otherwise defined as data; or (2) making voluntarily disclosed information accessible through the single web portal.

(i) [[After a public data set has been available on the web portal for 6 months, an agency must not change or terminate collection of data or remove the data set from public access without the approval of the Chief Administrative Officer or the Chief Administrative Officer's]]
The Open Data Implementation Plan must address when and how an agency may change or terminate collection of data or remove the public data set from public access.

(j) The Chief Administrative Officer must assign appropriate staff to manage the public data sets. The Open Data Implementation Plan must address appropriate staffing to manage the published public data sets.

2-155. Web portal administration.

(a) The Open Data Implementation Plan must address measures to maintain bandwidth availability of the web portal.

(b) The County must conspicuously publish the open data policy in Section 2-156 on the web portal.

(c) The County must implement an on-line forum mechanism to solicit public feedback and encourage public discussion on open data policies and public data set availability on the web portal.

(d) An agency must consider any request that it receives through the public feedback mechanism to include a particular public data set when making any determination as to priority for public data set inclusion on the single web portal. An agency’s consideration of such a request must defer to the priority assigned to publication by the Open Data Implementation Plan.

2-156. Open data policy.

(a) A public data set made available on the web portal is provided for informational purposes. The County makes no express or implied warranty as to the completeness, accuracy, content,
merchandability, or fitness for any particular purpose or use of any public data set made available on the web portal[, and no warranty is implied with respect to any public data set on the web portal].

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

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

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

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

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

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

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

(4) must include a plan to adopt or utilize a web application programming interface that permits application programs to
request and receive public data sets directly from the web portal.

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

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

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

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

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

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

and

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

(b) If a public data set cannot be made available on the single web portal on or before December 31, 2018, the Open Data Implementation Plan must state the reason why the set cannot be made available, and, to the extent practicable, the date by which the agency in possession of the
(c) [To prioritize public data sets, an agency must consider whether information embodied in the public data set:

1. can be used to increase agency accountability and responsiveness;
2. improves public knowledge of the agency and its operations;
3. furthers the mission of the agency;
4. creates economic opportunity; or
5. responds to a need or demand identified by public consultation.

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

1. the specific measures taken to make a public data set available on the single web portal since the previous [update] report;
2. any specific measure that will be taken before the next [update] report;
3. [an update to] whether the list of public data sets, [if necessary] outlined in the Open Data [Compliance] Implementation Plan should be updated;
4. [any change to] whether the prioritization of public data sets in the Open Data [Compliance] Implementation Plan should be changed; and
(5) [[an update to]] whether the timeline outlined in the Open Data [[Compliance]] Implementation Plan for the inclusion of a public data set on the single web portal, [[if necessary]] should be changed.

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

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

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

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

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

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

(b) The Chief Administrative Officer must identify in the Open Data Implementation Plan what data elements and a schedule to make available on the web portal for [[each]] information [[request submitted to the County under]] relating to the implementation of the Maryland Public Information Act by [[and]] the County [[County’s response to that request]].
(c) The Legislative Branch must post all data elements, as identified by the Open Data Implementation Plan, on the same single web portal used by the Executive Branch.

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

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

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

[[The Chief Administrative Officer's report required by Section 2-158 must report quarterly to the Council on the Executive Branch's compliance with the Maryland Public Information Act. The report must cite the statutory exception that supports each denial or partial denial of an information request]] include an update on implementation of this Section.
Approved:

Nancy Navarro, President, County Council

Approved:

Isiah Leggett, County Executive

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council