

DRAFT OPEN DATA ORDINANCE

10-1-13 Draft

Chapter 2.126 – Cambridge Open Data Ordinance

2.126.010 – Title and Purpose

This Chapter shall be known as the “Cambridge Open Data Ordinance.” The purpose of this ordinance is to ensure that, in an increasingly technological age, the City of Cambridge (the “City”) is committed to providing residents with a high level of transparency, engagement and collaboration in City government.

The City anticipates that making government data open in easy to find and usable formats will create effective and meaningful opportunities for the City and members of the public to work collaboratively to generate new ideas to solve complex challenges. An open data initiative will allow a more diverse body of expertise to develop new analyses, insights and findings that will allow the City to target its efforts to provide more efficient and effective government services.

This initiative must be balanced with the City’s obligation to protect private and confidential information and to ensure public safety and security, and the need to conduct City operations in an efficient and effective manner.

2.126.020 – Definitions

As used in this Chapter:

- A. “API” means an application programming interface that specifies how some software components should interact with each other.
- B. “CSV” means comma separated values.
- C. “Data” or “Data Sets” shall mean a collection of final versions of relevant statistical facts or data that are:
 - 1. Collected in an alphanumeric form reflected in a list, table, graph, or chart form that can be digitally transmitted or processed; and
 - 2. Regularly created or maintained by or on behalf of and owned by the City that records a measurement, transaction, or determination related to the business of the City.

Data or Data Sets shall not include information provided to the City by other governmental entities, nor shall it include image files, such as designs, drawings, maps, photos, or scanned copies of original documents. Nothing in this Chapter shall be deemed to prohibit the City from voluntarily disclosing information not otherwise defined in this section as “Data” or “Data Sets,” including, when appropriate, narrative form as long it is not Protected Data.

Comment [r1]: Change #1

- D. “ITD” means the City’s Information Technology Department.

E. "Machine Readable" means in a format that is reasonably structured to allow automated processing

Comment [r2]: Change #2

F. "Massachusetts Public Records Law" shall mean M.G.L. c. 4, § 7(26), M.G.L. c. 66, § 10, and 950 CMR 32.

G. "Protected Data" means any Data or Data Set:

1. that is exempt from disclosure pursuant to the Massachusetts Public Records Law; or
2. that contains a significant amount of Data and the disclosure of such Data would impose an undue financial or administrative burden on the City; or
3. that reflects the internal deliberative or administrative process(es) of the City, including, but not limited to, Data and Data Sets relating to negotiating positions, future procurements or pending or reasonably anticipated legal or administrative proceedings; or
4. that is stored exclusively on a City-owned personal computing device or portion of a network that is assigned exclusively to a City employee; or
5. that is subject to privacy laws, student records laws or subject to copyright, patent, trademark or trade secret protection, or to a confidentiality agreement, or that are otherwise protected by law or contract; or
6. that includes or constitutes proprietary applications, computer code, software, operating systems or similar materials; or
7. that includes or constitutes employment records, internal employee-related directories or lists, facilities data, information technology, internal service-desk data or any other Data related to the internal administration of the City; or
8. which, if disclosed by the City, might in the City's discretion, raise privacy, confidentiality or security concerns or jeopardize or have the potential to jeopardize public health, safety or welfare.

Comment [r3]: Change #3

2.126.030 – Open Data Accessibility

A. For the purpose of identifying Data or Data Sets for inclusion on the City's website, the City may consider whether the information in the Data or Data Set:

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1. improves public knowledge of the operations of the City or furthers the goals of the City; or
2. increases City accountability, efficiency, responsiveness or delivery of services; or
3. adds to the public knowledge about Cambridge, residents of the City or the City's economy.

B. The City shall make reasonable efforts to make the Data or Data Sets available in a schedule determined by the City Manager in consultation with the Open Data Review Board as established in Section 2.126.060.

C. Such efforts must be consistent with the rules and standards set forth by the Open Data Review Board as established in Section 2.126.060, and with applicable laws, including Massachusetts Public Records Law and all applicable privacy and student records laws.

D. The disclosure of Protected Data shall be prohibited.

E. Data or Data Sets must be updated as often as is feasible to preserve the integrity and usefulness of the Data or Data Sets.

F. Data or Data Sets must be published in a format that is Machine Readable as defined by Section 2.126.020(E) and at a level of granularity accepted by the Open Data Review Board as established in Section 2.126.060.

Comment [r4]: Change #4

2.126.040 – Public Data Access

A. The ITD shall provide and manage a website to make Relevant Data and Data Sets accessible. The website will include a catalogue of all available Relevant Data and Data Sets.

Comment [r5]: Change #5

B. Relevant Data and Data sets will be accessible to external search capabilities.

C. Relevant Data or Data sets will be accessible without the use of a user account and/or password and shall be free of charge.

Comment [r6]: Change #6

2.126.050 – Procurement

The City's Purchasing Agent will make best efforts to ensure that relevant new software purchased by the City includes capabilities that allow the City to comply with this Chapter when fiscally and operationally attainable, as determined by the City Manager. The Purchasing Agent shall stipulate in contracts and agreements with external vendors, when appropriate, provisions to ensure that the City retains ownership of all City data.

Comment [r7]: Change #7

2.126.060 – Open Data Review Board established -- Standards and Compliance

An Open Data Review Board will be established by the City Manager to develop under the direction of the City Manager internal rules and standards for implementation of an open data policy, including a means by which to determine the Data or Data Sets that are appropriate for public disclosure and a timeline for policy implementation. The Open Data Review Board will be comprised of at least one member of the public selected by the City Manager on an annual basis and at least one representative from the ITD. The Open Data Review Board shall not be comprised of any individuals acting on the behalf of a company. The City Manager will report annually to the City Council and the public on the status of the implementation of this Chapter.

Comment [r8]: Change #8

2.126.070 – Open Data Legal Policy

A. Data or Data sets made available on the website are provided for informational purposes only. The City does not warranty the completeness, accuracy, content or fitness for any particular purpose or use of any Data or Data Set made available on the website, nor are any such warranties to be implied or inferred with respect to the Data or Data Sets furnished therein.

B. The City is not liable for any deficiencies in the completeness, accuracy, content or fitness for any particular purpose or use of any Data or Data Set, or application utilizing such Data or Data Set, provided by the City or any third party.

C. This Chapter shall not be construed to create a private right of action to enforce its provisions. Failure to comply with this Chapter shall not result in any liability of the City or its employees.

Rutenberg, Rebecca

From: Saul Tannenbaum [saul@tannenbaum.org]
Sent: Tuesday, October 01, 2013 4:21 PM
To: Rutenberg, Rebecca
Cc: Cheung, Leland
Subject: Re: Cable TV, Telecommunications and Public Utilities Committee Meeting

Becca, Leland,

I've had a chance to review the draft ordinance. I think this version is greatly improved over the last one.

The significant area of concern I have is over the Open Data Review Board. As I read it, it will include one member the public and one member of ITD staff. Is that really the entire Board? I think clarifying this would be helpful as would making it clear that the Board should operate with complete transparency. My preference would be to make it subject to Open Meeting laws, but, at a minimum, posting meeting notices and minutes should be required.

Is the next step submitting this to the Council?

Have a good meeting.

- Saul

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Read CambridgeHappenings.org, a daily Cambridge news summary, curated from fresh, local sources.

Rutenberg, Rebecca

From: John Hawkinson [jhawk@MIT.EDU]
Sent: Tuesday, October 01, 2013 5:08 PM
To: Rutenberg, Rebecca; Cheung, Leland
Subject: Comments on "9-25-13 Draft" open data ordinance

Hi, Ms. Rutenberg and Councillor Cheung:

I apologize for not being able to make tonight's meeting. I think this draft is pretty good, and I have no showstopper comments. I have a few big-picture issues and some minor tweaks. I would appreciate your submitting my comments to the Record for tonight's #opendata meeting.

BIG-PICTURE:

* 2.126.020 - Definitions (C): I do not understand why this language is present:

"Data or Data Sets shall not include information provided to the City by other governmental entities, nor shall it include image files, such as designs, drawings, maps, photos, or scanned copies of original documents."

It seems to me that there are many reasonable cases where images or maps and drawings and photos are a reasonable part of Open Data. Of course we want to avoid scanned spreadsheets, but a scanned spreadsheet is better than no spreadsheet.

The Ordinance should Guide the City, but it should not be unnecessarily limiting. We do not want a situation where someone says, "No, we cannot release this dataset as #opendata because it contains an image." We would much prefer to see, "We know this dataset could be better if it didn't have this text-represented-as-an-image."

I think this sentence should either be struck in entirety (my preference), or the two "shall"s should become "shoulds." If struck in entirety, perhaps appropriate aspirational text should be added elsewhere.

* 2.126.030 - Open Data Accessibility (D). The definition of Protected Data is broadly worded, and appropriately so. But The words "disclosure of Protected Data shall be prohibited" is overstrong. It means, that Ordinance could be construed to bar release of some kinds of Protected Data that isn't actually problematic.

For instance the City might choose to release some information about an internal deliberate process (G)(3) that it wishes to share; if it wants to do so, it should not be prohibited. Or there may be reasonably open and public data on a device that is "a City-owned personal computing device assigned exclusively to a City employee" (G)(4) that everyone, the employee included, thinks should be open. The Ordinance not bar it from being made open; it should merely not be construed as to require it.

* 2.126.130 Open Data Accessibility (F). "Data or Data Sets must be published in a format that is Machine Readable." Again, I think "must" is overstrong and "should" would suffice. It would protect the City adequately without compromising the ideals, but will allow reasonably practical "some data is better than no data" situations.

* 2.126.060 Open Data Review Board. There should be some clarity on the rationale for exclusion of corporate actors. If you feel that rationale doesn't belong in the ordinance (but perhaps might be a WHEREAS in an enacting policy order or something), it would be good to see a draft of it in lock-step with the policy. People should understand why that is there when evaluating the policy.

Frankly I am not entirely sure that excluding *all* corporate interests is the right thing. I understand the goal is to not "stack the deck" against the public. But there are reasonable "corporate actors" who might have something to say. Is someone from the Harvard Kennedy School of Government a "corporate actor"? What about a representative from the Cambridge Chronicle? I am not sure, but I could imagine both might have something useful to contribute, if the Manager chooses to select them within his broad discretion.

MINOR TWEAKS:

* 2.126.010. Paragraph 1, why say "residents" rather than "public"? Some of the most useful consumers of Cambridge's open data may be non-residents, either who work in the City or who work elsewhere but produce excellent visualizations that cover the City, or do so at a regional or national level. Why exclude them from the start?

Par. 2, strike "to target its efforts"; it is meaningless verbiage.

Par. 3, "initiative" I'm not sure this is the right word. If it is, it is odd that it is not used in the prior paragraphs of this preamble. I marked it "word choice" on my draft, but I fear it means the 2 prior grafs need a bit more attention to solve this.

* 2.126.030. (C), (D), (F) both discuss the Open Data Review Board and cite its section by number at 2.126.060. I am not an expert in ordinance drafting, but I imagine it is best to reduce the number of explicit cross-references for when things change. I would remove the 2.126.060 reference from these three sections altogether. If it is thought that a forward reference is really needed, I think the thing to do would be to define Open Data Review Board in 2.126.020 Definitions and there provide a single reference to 2.126.060.

* 2.126.040. It is bad to say "and/or." Rewrite from "without the use of a user account and/ or password and shall be free of charge." to: "without requiring a user account or password; access shall be free of charge."

* 2.126.050. Replace "when appropriate" with "where appropriate,"

which is appropriately broader and implies more about situational and contextual relevance, rather than temporal relevance.

* 2.126.060. Potentially irrelevant given my Big Picture comment on this, but I do not like the language "comprised of any." Typically comprisal implies the totality (but it does not *have* to), so this is confusing, though the intent is reasonable clear. Better is to say "shall not include any corporate actors as members."

Additionally, I do not know what a "corporate actor" is. Does it include individuals who happen to work for MIT and Harvard and the American Academy in pertinent capacities? What about the Cambridge Chronicle? Or is it intended to indicate that the members will be their own personal represenatives and their employers would not be asked to nominate -- i.e. KSG would not be asked to nominate someone for the position, even though a KSG person could be one of those people? Do universities and schools qualify as "corporate"? What about think tanks? What about local NGOs? All of these things are companies, and not all are 501(c)3 (or even anything at all under IRS Section 501), though we might not think of them as traditionally "corporate."

So please reword or more carefully define "corporate." Or perhaps decide that leaving it up to the discretion of the City Manager is appropriate, but I think it is appropriate for the Manager to have some guidance on what is meant here. Especially since I cannot tell from reading it.

Thank you very much. I wish you the best of luck!

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