



YPSILANTI COMMUNITY UTILITIES AUTHORITY

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Public Summary of FOIA Procedures and Guidelines

This is a summary of the Freedom of Information Act (FOIA) Procedures and Guidelines of the the Ypsilanti Community Utilities Authority (YCUA). A copy of YCUA's FOIA Procedures and Guidelines are available at no charge at YCUA's administrative offices at 2777 State Road, Ypsilanti, MI 48197, and on YCUA's website: www.ycua.org.

1. Submission of a FOIA Request to YCUA

- Requests to inspect or obtain copies of YCUA records may be submitted to YCUA, in any form of writing, including email.
 - No specific form of written request is required.
 - A FOIA Request Form (and other FOIA-related forms) may be available on YCUA's website at www.ycua.org, and YCUA's administrative offices at 2777 State Road, Ypsilanti, MI 48197.
- A request must sufficiently describe a public record so YCUA is able to find the record.
- A request should include the words "FOIA" or "FOIA Request."
- A request may be delivered to YCUA administrative offices.
- A request may be emailed to the FOIA Coordinator, whose e-mail address, as of July 1, 2015, is: foia@ycua.org. Email requests should contain the term "FOIA" or "FOIA Request" in the subject line.

2. YCUA's Response to a Request

- Within 5 business days after receiving a FOIA request YCUA will respond in writing. If a request is received by email, the request is received on the following business day.
- YCUA will respond to a request in one of the following ways:
 - grant the request;
 - deny the request;
 - grant the request, in part, and deny the request, in part;
 - issue a notice that YCUA will take an additional 10 business days to respond; or

- issue a notice that the record requested is available, at no charge, on YCUA's website.
- If a request is granted, or granted, in part, YCUA ask that payment be made for the allowable fees associated with responding to the request before the public record is provided.
- If the cost of processing the request is expected to exceed \$50, or if the requester has not paid for a previously granted request, YCUA may require a deposit before processing the request.

3. YCUA's Deposit Requirements

- If YCUA's good faith calculation indicates the total fee for processing a request will exceed \$50, YCUA will require a deposit in the amount of 50% of the total estimated fee. When YCUA requests a deposit, it will provide a non-binding estimate of how long it will take YCUA to process the request after the deposit is paid.
- If YCUA receives a request from a person who has not paid for copies of public records made in fulfillment of a previously granted request, YCUA will require a deposit of 100% of the estimated processing fee before it begins to search for the newly requested public record when all of the following conditions exist:
 - the final fee for the prior written request is not more than 105% of the estimated fee;
 - the public records made available contained the information sought in the prior written request and remain in YCUA's possession;
 - the public records were made available, subject to payment, within the time frame estimated by YCUA to provide the records;
 - ninety (90) days have passed since YCUA notified the requester in writing that the public records were available for pickup or mailing;
 - the requester is unable to show proof of prior payment to YCUA; and
 - YCUA has prepared an estimated itemization that is the basis for the current written request's increased fee deposit.
- YCUA will not require the 100% estimated fee deposit if any of the following apply:
 - the requester is able to show proof of prior payment in full to YCUA;
 - YCUA is subsequently paid in full for all applicable prior written requests; or
 - three hundred sixty five (365) days have passed since the person made the request for which full payment was not remitted to YCUA.

4. Calculation of FOIA Processing Fees

The FOIA permits and YCUA may charge for the following costs associated with processing a request:

- labor costs associated with copying or duplication, which includes making paper or digital copies, or transferring digital public records to non-paper physical media or through the Internet;
- labor costs associated with searching for, locating and examining a requested public record, when failure to charge a fee will result in unreasonably high costs to YCUA;
- labor costs associated with a review of a record to separate and delete information exempt from disclosure, when failure to charge a fee will result in unreasonably high costs to YCUA;
- the cost of copying or duplication, not including labor, of paper copies, which may include the cost for copies of records already on YCUA's website if the requester asks for copies;
- the cost of non-paper physical media, when the requester asks for records in non-paper physical media, which may include the cost for copies of records already on YCUA's website, if the requester asks for copies; and,
- the cost to mail a public record to a requester.

Labor Costs

- Labor costs are estimated and charged in 15-minute increments, with all partial time increments rounded down. If the time involved is less than 15 minutes, there will be no charge.
- Labor costs are charged at the hourly wage of the lowest-paid YCUA employee capable of doing the work, regardless of who does the work.
- Labor costs include a charge to cover or partially cover the cost of fringe benefits. YCUA may add up to 50% to the applicable labor charge to cover or partially cover the cost of fringe benefits, but this fringe benefit charge may not exceed the actual cost of fringe benefits.
- Overtime wages are not included in labor costs unless agreed to by the requester and overtime costs will not be used to calculate the fringe benefit cost.
- Contracted labor costs are charged at the hourly rate of 6 times the state minimum hourly wage at the time of the request, which is \$48.90, as of July 1, 2015.

Costs are “unreasonably high” when they are excessive and beyond the normal or usual amount for those services, compared to YCUA’s usual FOIA requests, because of the nature of the request in the particular instance. YCUA must identify the nature of the unreasonably high costs in writing.

Copying and Duplication

YCUA will use the most economical method for making copies of public records.

Non-paper Copies on Physical Media

- The cost for records provided on non-paper physical media will be the actual and most reasonably economical cost for the non-paper media.
- This cost will be charged only if YCUA has the technological capability to provide the public record in the requested non-paper physical media format.

Paper Copies

- Paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) sized paper will not exceed \$.10 per page.
- Copies for non-standard sized sheets of paper will be charged at the actual cost of reproduction.

Mailing Costs

- The actual cost to mail public records, using a reasonably economical and justified means.
- The least expensive form of postal delivery confirmation.
- There is no charge for expedited shipping or insurance, unless requested.

Waiver of Fees

The cost to search for and copy a public record may be waived or reduced if, in YCUA’s judgment, a waiver or reduced fee is in the public interest.

5. Fee Discounts

YCUA will discount the first \$20 of fees for a request if a requester submits an affidavit stating that the requester is:

- indigent and receiving specific public assistance; or

- if not receiving public assistance, stating facts that demonstrate an inability to pay because of indigence.

A requester is not eligible to receive the \$20 discount if the requester:

- has previously received discounted copies of public records from YCUA twice during the calendar year; or
- has requested information on behalf of other persons who are offering or providing payment for the request.

An Affidavit is a sworn statement. YCUA may provide an Affidavit of Indigence for the waiver of FOIA fees on YCUA's website: www.ycua.org.

6. Fee Discounts for Non-Profit Organization

A nonprofit organization advocating for developmentally disabled or mentally ill individuals that is designated by the State to carry out activities under subtitle C of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, and the Protection and Advocacy For Individuals With Mental Illness Act, Public Law 99-319, may receive a \$20 discount if the request meets all of the following requirements:

- is made directly on behalf of the organization or its clients;
- is made for a reason consistent with the mission and provisions of those federal laws under section 931 of the Michigan Mental Health Code, 1974 PA 258, MCL 330.1931; and,
- is accompanied by documentation of such a designation by the State, if requested by YCUA.

7. Challenges to a Denial

Appeal of a Denial of a Public Record

If a requester believes all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, the requester may appeal to the YCUA Board by filing a written appeal with the FOIA Coordinator.

The appeal must be in writing, specifically state the word "appeal," and identify the reason or reasons for reversal of the denial. A YCUA FOIA Appeal Form may be available on YCUA's website: www.ycua.org.

Within 10 business days of receiving the appeal the YCUA Board will respond in writing by:

- reversing the disclosure denial;
- upholding the disclosure denial; or
- reverse the disclosure denial, in part, and uphold the disclosure denial, in part.

Whether or not an appeal of a denial is filed with the YCUA Board, a civil action in Washtenaw County Circuit Court may be filed within 180 days after YCUA's final determination to deny a request. If a requester prevails in the civil action the court will award reasonable attorneys' fees, costs and disbursements. If the court determines that YCUA acted arbitrarily and capriciously in refusing to disclose or provide a public record, the court shall award damages in the amount of \$1,000.

Appeal of an Excess FOIA Processing Fee

If a requester believes the fee charged by YCUA to process a FOIA request exceeds the amount permitted by State law, the requester must first appeal to the YCUA Board by filing a written appeal for a fee reduction with the FOIA Coordinator.

The appeal must specifically state the word "appeal" and identify how the required fee exceeds the amount permitted. A YCUA FOIA Appeal Form may be available on YCUA's website: www.ycu.org.

Within 10 business days after receiving the appeal, the YCUA Board will respond in writing by:

- waiving the fee;
- reducing the fee and issue a written determination indicating the specific basis that supports the remaining fee;
- upholding the fee and issue a written determination indicating the specific basis that supports the required fee; or
- issuing a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the YCUA Board will respond to the written appeal.

Within 45 days after receiving notice of the YCUA Board's determination of the processing fee appeal, a requester may commence a civil action in Washtenaw County Circuit Court for a fee reduction. If the requester prevails in the civil action by receiving a reduction of 50% or more of the total fee, the court may award all or an appropriate amount of reasonable attorneys' fees, costs and disbursements. If the court determines that YCUA acted arbitrarily and capriciously by charging an excessive fee, the court may also award you punitive damages in the amount of \$500.