

July 4, 2008

Ms. Estefanie Muller, Clerk/Administrator
Town of Edgewood
P.O. Box 3610
Edgewood, NM 87015
via e-mail: clerk@edgewood-nm.gov sent 7/4/08

Subject: Inspection of Public Records Request

Dear Estefanie:

This request to inspect and copy public records is submitted pursuant to the New Mexico Inspection of Public Records Act ("Open Records Act"), NMSA 1978 §14-1, et seq. I wish to inspect and obtain electronic and all other copies of documents believed to be in the possession of the Town of Edgewood. For the purposes of this request, "Ordinance 2004-5, Town of Edgewood, AN ORDINANCE REGULATING SIGNS; REQUIRING PERMITS; SETTING FORTH DEFINITIONS; GENERAL REGULATIONS; EXEMPTIONS; DESCRIBING PROHIBITED SIGNS; REGULATING COMMERCIAL HANDBILLS AND PROVIDING A PENALTY FOR VIOLATION" is referenced as "the Edgewood Sign Ordinance."

With respect to the Edgewood Sign Ordinance, please note that Section 10, paragraph B states: "Signs placed illegally within public property right-of-way may be removed by enforcement personnel. The first time a sign or signs are removed from public property, the person, business, or service identified on the sign will be given a notice of violation. If the same or similar signs identifying the same person, business, or service are again removed from public property, such person, business or service will be charged a disposal fee of \$25.00 per sign."

Based on the use of the words "If the *same* or similar signs...are *again* removed..." (emphasis added), it is clear that it is the intent of the governing body that signs removed under Section 10, paragraph B remain the property of the original owners and that the Town is obligated to return said property to them. It should be noted that the Edgewood Sign Ordinance only allows for removal by enforcement personnel when signs are "placed illegally within public property right-of-way."

At the July 2, 2008 Edgewood Town Council meeting, the Town's governing body chose to display a substantial number of apparently confiscated signs at the entrance of the Edgewood Community Center. Several photographs are provided:





I must note that no Town personnel are seen in these photographs guarding the signs, which were placed in an unsecured location, nor did I observe any protection for these signs at the time of the meeting. These photographs were taken after the Council meeting had been called to order. Further, when I left the meeting at approximately 8:20 p.m., the doors to the Community Center were closed, and no law enforcement or other personnel were present to ensure that the signs would not be stolen.

For all signs displayed at the July 2, 2008 Town Council meeting, including (but not limited to) those not clearly visible or outside the boundaries of these photographs, and for each sign and for all signs removed under the authority given in Section 10, paragraph B of the Edgewood Sign Ordinance since the moratorium on sign ordinance enforcement expired, please provide access to the following:

1. A complete inventory of all signs removed.
2. For each sign, documentation of:
 - a. The specific reason for which the sign was removed.
 - b. The date on which the sign was removed.
 - c. All records of field measurements, photographs, and other methods used to determine and/or demonstrate that the sign(s) were within the “public property right-of-way.”
 - d. Copies of all “notices of violation issued to the person, business, or service identified on the sign” as required by Section 10, paragraph B of the Edgewood Sign Ordinance for all aforementioned signs.
 - e. Copies of all “notices of violation issued to the person, business, or service identified on the sign” as required by Section 10, paragraph B of the Edgewood Sign Ordinance for all signs removed or confiscated, or found to be out of compliance, since the expiration of the aforementioned moratorium.
 - f. Copies of all “notices of violation issued to the person, business, or service identified on the sign” as required by section 10, paragraph B of the Edgewood Sign Ordinance for all signs removed or confiscated, or found to be out of compliance, since the ordinance was enacted.
3. As discussed above, the intent of the Edgewood Sign Ordinance is clearly that signs remain the property of their original owners. Provisions for protecting such private property held in the Town’s custody are not specified in the Edgewood Sign Ordinance. Should such property be considered evidence, it should be noted that no ordinances associated with the handling of evidence are provided on the Town’s web site. Copies of all ordinances, operating procedures, and policies associated with the handling and protection of evidence are requested.
4. The Edgewood Sign Ordinance provides no definition of “public property right-of-way,” “public property,” or “right-of-way.” Neither does it incorporate by reference any definition of such terms. Please provide the reference to the appropriate ordinance(s) within which the definition or definitions are contained. An explanation of how those placing signs are expected to understand the requirements of the ordinance – given the absence of a clear definition of these terms – is also requested.
5. A copy of the “Power Point Presentation on Off-Site Signage and Kiosk Signage” (Item 12.P on the agenda for the meeting).

6. A copy of "Resolution No. 2008-42 – Sign Ordinance Moratorium."
7. A copy of all reports, presentations, and recommendations of the committee appointed by the Town Council to examine and recommend changes to the Edgewood Sign Ordinance.
8. All other reports, documents, and communications, including but not limited to e-mail messages, associated with the sign ordinance, removal of signs, and Town policies regarding development and enforcement of the Edgewood Sign Ordinance.

According to one of the attendees at the meeting, one of the signs was an announcement for a vacation Bible study course for his church. Documentation of the removal of this sign is specifically, but not exclusively, requested.

This request is in the public interest; therefore, I request that costs associated with copying be waived; however, I would prefer to receive the information electronically if possible. The custodian of records may contact me at the following address and telephone number within applicable statutory time limits provided in NMSA §14-2-8.

John E. Weckerle
1 Sassy Lane
Edgewood, NM 87015
(505) 286-4278

Thank you for your attention to this matter. If you should have any questions, please feel free to contact me at your earliest convenience.

Sincerely,

John E. Weckerle

cc:
The East Mountain Telegraph
The Independent
Office of the New Mexico Attorney General