

# CITY OF TOLEDO



## DEPARTMENT OF PUBLIC UTILITIES

July 15, 2008

### CERTIFIED MAIL

Mr. John Cervantes  
11508 Monclova Road  
Monclova, OH 43542

### **Re: Notice of Violation – Open Burning**

Dear Mr. Cervantes:

Enclosed is a **Notice of Violation** for non-compliance with the Ohio Administrative Code 3745-19 regarding open burning at 11508 Monclova Rd Monclova, OH. Please review this document carefully as some action, including a written response, is required on your part.

If you have any further questions regarding this matter, feel free to contact me at (419) 936-3778.

Yours from Toledo – An International Award Winning City

A handwritten signature in cursive script, appearing to read "Dave Muir".

Dave Muir  
Environmental Specialist

DAM/dam

Enclosures

cc: Lisa Holscher, U.S. EPA, Region V  
John Paulian, Ohio EPA  
Tim Murphy, Commissioner, Toledo Division of Environmental Services  
Karen Granata, Chief, Air Resources

**NOTICE OF VIOLATION**

July 15, 2008

As a contractual Agent of the Ohio Environmental Protection Agency, the City of Toledo Division of Environmental Services hereby serves notice that:

Mr. John Cervantes, Owner  
11508 Monclova Rd.  
Monclova, OH 43542

has violated the following environmental laws, orders, rules, or regulations on the indicated dates at the above address.

<u>Regulations Violated</u>	<u>Description and Dates of Violations</u>
<p><b>OAC Rule 3745-19-04 (A), (B) (2) (a), (b), (c)</b></p> <p>3745-19-04 Open burning in unrestricted areas. (A) No person or property owner shall cause or allow open burning in an unrestricted area except as provided in paragraphs (B) to (C) of this rule or in section <u>3704.11</u> of the Revised Code. (B) Open burning shall be allowed for the following purposes without notification to or permission from the Ohio EPA: (2) Bonfires, campfires and outdoor fireplace equipment, whether for cooking food for human consumption, pleasure, religious, ceremonial, warmth, recreational, or similar purposes, if the following conditions are met: (a) They are fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood; (b) They are not used for waste disposal purposes and (c) They shall have a total fuel area of three feet or less in diameter and two feet or less in height.</p>	<p>On July 12, 2008, City of Toledo Division of Environmental Services (TES) personnel were notified by an anonymous complainant of an open burn at 11508 Monclova Road at approximately 2:12 P.M. Upon arrival at the address at 3:38 P.M., this TES responder witnessed the burning of multiple large piles of mulch as well as at least one tree stump. The area of the open burn would be considered approximately 40 ft. by 40 ft. and flames were observed to be approximately 4 ft. high. <b>The distance from the fire to the nearest neighboring residence was less than 1,000 ft.</b></p>

The above violation(s) may subject the violator to **penalties** of up to \$25,000 per violation. It is possible that a penalty will be assessed in this case. If a penalty is to be assessed, the amount will be determined after your response is reviewed.

## Required Actions

Within **14 days of receipt of this Notice of Violation**, you shall:

1. Abate the violations or provide for an acceptable remedy.
2. Reply in writing to this Notice of Violation. The reply shall include:
  - a. Description(s) and date(s) of action(s) taken thus far to abate the violation(s).
  - b. Description(s) and expeditious time schedule of action(s) yet to be taken to remedy the violation(s).
  - c. Description(s) of action(s) taken or to be taken to prevent recurrence of the violation(s).

Your written response, and any questions regarding this Notice of Violation, should be directed to Dave Muir, City of Toledo Division of Environmental Services, 348 S. Erie Street, Toledo, Ohio 43604.

The submission of the above requested information does not constitute a waiver of Ohio EPA's authority to seek civil penalties pursuant to Ohio Revised Code § 3704.06. This violation may be subject to OAC 3745-19-06(A) stating that the director may assess and collect administrative penalties from any person who violates any of the rules in this chapter. Through unilateral orders, the director may assess a violator not more than two hundred-fifty dollars per day for each violation of the rules for open burning on residential property. Ohio EPA will make a decision on whether to pursue or decline to pursue such penalties regarding this matter at a later date.