

# Air Pollution Control Division



Canton City Health Department

APC Contractual  
Representative  
Serving All of Stark County

420 Market Avenue North • Canton, Ohio • 44702-1544  
(330) 489-3385 • Fax: (330) 489-3335

Robert E. Pattison, MPA  
Health Commissioner

Daniel J. Aleman  
APCD Administrator

COPY

CERTIFIED MAIL

November 29, 2007

Mr. Theodore Flinner  
11438 Poorman ST SW  
Navarre, OH 44662

**Re: NOTICE OF VIOLATION OF THE OAC 3745-19-04-(B)-(2)-(b); OPEN  
BURNING FOR WASTE DISPOSAL IN AN UNRESTRICTED AREA**

Dear Mr. Flinner:

The Canton City Health Department, Air Pollution Control Division (APCD) represents the Ohio EPA in air quality matters within Stark County. As such, APCD employees are charged with the responsibility to investigate and enforce Ohio EPA (OEPA) air pollution regulations. APCD employees are authorized under Ohio Revised Code 3704.03 (L) to enter upon private property to determine if there is noncompliance with OEPA regulations.

A public nuisance complaint was received on 07/02/2007 for an illegal open burning at your residence of 11438 Poorman ST SW Navarre, OH 44662. I inspected your residence on the afternoon of November 28, 2007 and obtained visual and photographic evidence of a violation of the Ohio Administrative Code (OAC) 3745-19-04(B)-(2)-(b); more specifically the fire is not to be used for waste disposal purposes.

Since your residence is located in what the OEPA defines as an unrestricted area, individuals in unrestricted areas are permitted to conduct open burning for recreational and outdoor cooking purposes. The following conditions apply to recreational fires in an unrestricted area;

- 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.*

This Agency would appreciate your cooperation with regard to this matter. Should you have any questions concerning this letter or the open burning regulations, please contact me at (330) 489-3385.

Sincerely,



Denny Tan

Staff Field Inspector II  
Air Pollution Control Division  
Canton City Health Department

Enc:

- 1) OAC rule 3745-19-01
- 2) OAC rule 3745-19-04
- 3) Ohio EPA Open Burning Regulations Brochure
- 4) Photographs

Pc:

- 1) Addressee via first-class and certified mail
- 2) Open burn file
- 3) NOV file

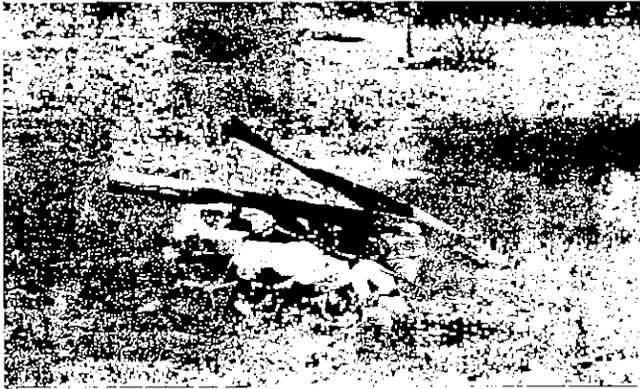


Photo shows a recreational burn area in rear yard.

11438 Poorman ST SW – Sugarcreek TWP. Photo taken by Staff Field Inspector II, Denny Tan on 11/27/2007 at 1500hrs



Photo shows evidence of waste disposal.

11438 Poorman ST SW – Sugarcreek TWP. Photo taken by Staff Field Inspector II, Denny Tan on 11/27/2007 at 1500hrs

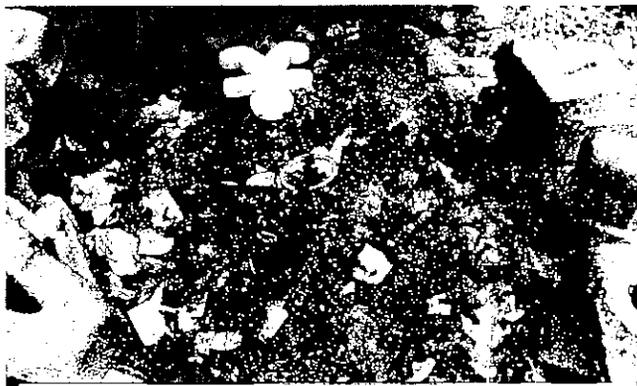


Photo shows evidence of waste disposal.

11438 Poorman ST SW – Sugarcreek TWP. Photo taken by Staff Field Inspector II, Denny Tan on 11/27/2007 at 1500hrs

## 3745-19-01 Definitions.

As used in Chapter 3745-19 of the Administrative Code:

- (A) "Agricultural waste" means any waste material generated by crop, horticultural, or livestock production practices, and includes such items as woody debris and plant matter from stream flooding, bags, cartons, structural materials, and landscape wastes that are generated in agricultural activities, but does not include land clearing waste, buildings, garbage, dead animals, animal waste, motor vehicles and parts thereof, nor economic poisons and containers thereof, unless the manufacturer has identified open burning as a safe disposal procedure.
- (B) "Economic poisons" include but are not restricted to pesticides such as insecticides, fungicides, rodenticides, miticides, nematocides and fumigants; herbicides; seed disinfectants; and defolians.
- (C) "Emergency burning" means the burning of clean wood waste or deceased animals caused by a natural disaster or an uncontrolled event such as the following:
- (1) A tornado.
  - (2) High winds.
  - (3) An earthquake.
  - (4) An explosion.
  - (5) A flood.
  - (6) A hail storm, a rain storm, or an ice storm.
- (D) "Garbage" means any waste material resulting from the handling, processing, preparation, cooking and consumption of food or food products.
- (E) "Landscape waste" means any plant waste material, except garbage, including trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, yard trimmings, and crop residues.
- (F) "Land clearing waste" means plant waste material which is removed from land, including plant waste material removed from stream banks during projects involving more than one property owner, for the purpose of rendering the land useful for residential, commercial, or industrial development. Land clearing waste also includes the plant waste material generated during the clearing of land for new agricultural development.

(G) "Ohio EPA" means the Ohio environmental protection agency director or agencies delegated authority by the director of the Ohio environmental protection agency pursuant to section 3704.03 of the Revised Code or the chief of any Ohio environmental protection agency district office.

(H) "Open burning" means the burning of any materials wherein air contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney. Open burning includes the burning of any refuse or salvageable material in any device not subject to or designed specifically to comply with the requirements of rule 3745-17-09 or 3745-17-10 of the Administrative Code.

(I) "Residential waste" means any waste material, including landscape wastes, generated on a one-, two- or three-family residence as a result of residential activities, but not including garbage.

(J) "Restricted area" means the following:

(1) Except as provided in paragraph (1)(2) of this rule, the area within the boundary of any municipal corporation established in accordance with the provisions of Title 7 of the Revised Code, plus a zone extending one thousand feet beyond the boundaries of any such municipal corporation having a population of one thousand to ten thousand persons and a zone extending one mile beyond any such municipal corporation having a population of ten thousand persons or more according to the latest federal census.

(2) "Restricted area" shall not include any municipal corporation the territory of which is located on an island in Lake Erie except that, during the yearly period between Memorial Day and Labor Day, any such municipal corporation shall be required to comply with the requirements of rule 3745-19-03 of the Administrative Code.

(K) "Unrestricted area" means all areas outside the boundaries of a restricted area as defined in paragraph (1) of this rule.

(L) Incorporation by reference. This chapter includes references to certain matter or materials. The text of the incorporated materials is not included in the regulations contained in this chapter. The materials are hereby made a part of the regulations in this chapter. For materials subject to change, only the specific version specified in the regulation are incorporated. Material is incorporated as it exists on the effective date of this rule. Except for subsequent annual publication of existing (unmodified) Code of Federal Regulation compilations, any amendment or revision to a referenced document is not incorporated unless and until this rule has been amended to specify the new dates.

(1) Availability. The materials incorporated by reference are available as follows:

(a) National Fire Protection Association. Information on the National Protection Association codes may be obtained by contacting association at 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, 617-770-3000. Codes may be ordered [www.nfpa.org/catalog/home/index.asp](http://www.nfpa.org/catalog/home/index.asp). Copies of the code at most public libraries and "The State Library of Ohio."

(2) Incorporated materials.

(a) NFPA publication 1403: "Standard on Live Fire Training Evolutions, Chapter 4, Acquired Structures," November 2001 Edition.

Effective: 07/07/2006

R.C. 119.032 review dates: 01/20/2006 and 07/07/2011

CERTIFIED ELECTRONICALLY  
Certification

06/27/2006  
Date

Promulgated Under: 119.03  
Statutory Authority: R.C. Section 3704.03(E)  
Rule Amplies: R.C. Section 3704.03(A), 3704.03(E)  
Prior Effective Dates: 6/21/76, 10/30/87, 12/20/88, 11/27/00

## 3745-19-04 Open burning in unrestricted areas.

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see the last paragraph of rule 3745-19-01 of the Administrative Code titled "incorporation by reference."]

(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 3704.11 of the Revised Code.

(B) Open burning shall be allowed for the following purposes without notification to or permission from the Ohio EPA:

- (1) Heating tar, welding, acetylene torches, highway safety flares, heating for warmth of outdoor workers and strikers, smudge pots and similar occupational needs.
- (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 except when such fire is used for ceremonial purposes it may have a total fuel area no greater than five feet in diameter and five feet in height if the ceremonial fire burns no longer than three hours.
- (3) Disposal of residential waste or agricultural waste generated on the premises if the following conditions are observed:
  - (a) The fire is set only when atmospheric conditions will readily dissipate contaminants;
  - (b) The fire does not create a visibility hazard on the roadways, railroad tracks, or air fields;
  - (c) The fire is located at a point on the premises no less than one thousand feet from any inhabited building not located on said premises;

(d) The wastes are stacked and dried to provide the best practicable condition for efficient burning; and

(e) No materials are burned which contain rubber, grease, asphalt or liquid petroleum products.

(4) Disposal of hazardous explosive materials, military munitions or explosive devices that require immediate action to prevent endangerment of human health, public safety, property or the environment and that are excluded from the requirement to obtain a hazardous waste permit pursuant to paragraph (D)(1)(d) of rule 3745-50-05 of the Administrative Code

(5) Recognized training in the use of fire extinguishers for commercial or industrial fire prevention.

Fires allowed by paragraphs (B)(1), (B)(2), (B)(3) and (B)(5) of this rule shall not be used for waste disposal purposes, and shall be of the minimum size sufficient for their intended purpose; the fuel shall be chosen to minimize the generation and emission of air contaminants.

(C) Open burning shall be allowed for the following purposes upon receipt of written permission from the Ohio EPA, in accordance with paragraph (A) of rule 3745-19-05 of the Administrative Code, provided that any conditions specified in the permission are followed:

(1) Disposal of ignitable or explosive materials where the Ohio EPA determines that there is no practical alternate method of disposal, excluding those materials identified in paragraph (B)(4) of this rule;

(2) Instruction in methods of fire fighting or for research in the control of fire as recognized by the State fire marshal division of the Ohio department of commerce and the guidelines set forth in the National Fire Protection Association's (NFPA) publication 1403: "Standard on Live Fire Training Evolutions, Chapter 4, Acquired Structures", provided that the application required in paragraph (A)(1) of rule 3745-19-05 is submitted by the commercial or public entity responsible for the instruction;

(3) In emergency or other extraordinary circumstances for any purpose determined to be necessary by the director and performed as identified in the appendix of rule 3745-19-03 of the Administrative Code. If deemed necessary the open burning may be authorized with prior oral approval by the director followed by the issuance of a written permission to open burn within seven working days of the oral approval;

(4) Disposal of land clearing waste generated on the premises if the following conditions are observed:

3745-19-04

3

(a) The fire is set only when atmospheric conditions will readily dissipate contaminants;

(b) The fire does not create a visibility hazard on roadways, railroad tracks, or air fields;

(c) The fire is located at a point on the premises no less than one thousand feet from any inhabited building not located on said premises; and

(d) An air curtain destructor or other device or method determined by the director to be at least as effective is used to curtail release of air contaminants.

(5) Recognized horticultural, silvicultural, range, or wildlife management practices, and

(6) Fires and/or pyrotechnic effects, for purposes other than waste disposal, set as part of commercial film-making or video production activities for motion pictures and television.

(D) Open burning shall be allowed for the prevention or control of disease or pests with written or verbal verification to the Ohio EPA from the local health department, cooperative extension service, Ohio department of agriculture, or U.S. department of agriculture, that open burning is the only appropriate disposal method.

3745-19-04

4

Effective: 07/07/2006

R.C. 119.032 review dates: 01/20/2006 and 07/07/2011

CERTIFIED ELECTRONICALLY  
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Date

Promulgated Under: 119.03  
Statutory Authority: R.C. Section 3704.03(E)  
Rule Amplifies: R.C. Section 3704.03(A), 3704.03(E)  
Prior Effective Dates: 6/21/76, 10/30/87, 12/20/98, 11/27/00

## ENCLOSURE 4

For a complete copy of Ohio's open burning regulations, contact:

Ohio EPA  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
(614) 644-2270

or visit our Web site at  
[www.epa.state.oh.us/dapc/general/openburning.htm](http://www.epa.state.oh.us/dapc/general/openburning.htm)

**What you can do  
instead of open burning**

- Reduce the amount of waste you generate.
- Reuse items in another way.
- Recycle - Contact your local government about curb-side pickup or dropoff locations for bulky or hazardous items.
- Compost yard trimmings and food scraps to create a natural, free fertilizer.



 Ohio EPA is an Equal Opportunity Employer  
Printed on Recycled Paper.

When you burn refuse in burn barrels or open piles, the potential cost to your health, your home, your neighbors and your environment far exceeds the price of adequate collection services.

Protect yourself, your neighbors and your wallet by knowing the rules—what you can burn and where.

### What is open burning?

You are open burning any time you light an outdoor fire without a chimney or stack.

### Why is open burning a problem?

Open burning can release many kinds of toxic fumes. Leaves and plant materials send aloft millions of spores when they catch fire, causing many people with allergies to have difficulty breathing.

The pollutants released by open burning also make it more difficult to meet health-based air quality standards, especially in or near large cities. The gases released by open burning can also corrode metal siding and damage paint on buildings.

### What open burning is never allowed?

Under Ohio law, these materials *may not* be burned anywhere in the state at any time:

- garbage—any wastes created in the process of handling, preparing, cooking or consuming food;
- materials containing rubber, grease and asphalt or made from petroleum, such as tires, cars and auto parts, plastics or plastic-coated wire; and
- dead animals.



OhioEPA

## Before You Light It...

### Ohio's Open Burning Regulations

#### Other restrictions:

- Open burning is not allowed when air pollution warnings, alerts or emergencies are in effect.
- Fires cannot obscure visibility for roadways, railroad tracks or air fields.
- No wastes generated off the premises may be burned. For example, a tree trimming contractor may not haul branches and limbs to another site to burn.

### Does Ohio EPA ever allow exceptions to the rules?

Under certain circumstances, yes. However, to burn a prohibited material or set a fire in a restricted area, you must receive written permission from Ohio EPA *before* you begin burning. This may take two weeks.

### Can a community regulate open burning?

Yes. However, local ordinances cannot be less strict than the state law.

### What happens if I'm caught illegally open burning?

Ohio EPA has the authority to enforce the state's open burning laws. Violations can result in substantial penalties. If you have any questions, or would like to report a suspected open burning incident, contact your Ohio EPA district office or your local air pollution control agency. Ohio EPA is represented by five district offices and nine local air agencies. See the map in this brochure for the agency to contact in your area.

#### Health Concerns

Burning household waste produces many toxic chemicals and is one of the largest known sources of dioxin in the nation. Other air pollutants from open burning include

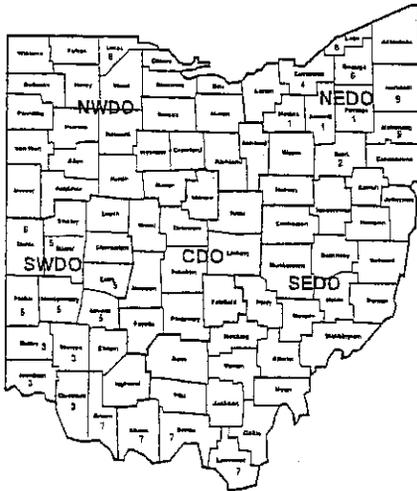
## What can I burn?

The following open fires are **allowed** in Ohio:

Type of Fire	Inside a village or city* (If generated on property)	Outside a village or city* (If generated on property)
Barbeques, campfires, cookouts	Wood stack no larger than 2 ft. high x 3 ft. wide. Use clean, seasoned firewood or equivalent.	Wood stack no larger than 2 ft. high x 3 ft. wide. Use clean, seasoned firewood or equivalent.
Agricultural waste	Agricultural wastes and plant matter such as tree trimmings, stumps, brush, weeds, leaves, grass, shrubbery and material from crop or livestock production. This includes fence posts and scrap lumber, but not buildings. <i>Fire must be more than 1,000 feet from neighbor's inhabited building. Must notify Ohio EPA in advance.</i>	Agricultural wastes and plant matter such as tree trimmings, stumps, brush, weeds, leaves, grass, shrubbery and material from crop or livestock production. This includes fence posts and scrap lumber, but not buildings. <i>Fires must be more than 1,000 feet from neighbor's inhabited building.</i>
Land-clearing waste	Not permitted in city limits.	Plant matter such as tree trimmings, stumps, brush, weeds, leaves, grass, shrubbery and crop residues. <i>With prior written permission from Ohio EPA. This may take two weeks.</i>
Residential waste	Not permitted in city limits.	Plant matter such as tree trimmings, stumps, brush, weeds, leaves, grass, shrubbery and crop residues. Also wastes such as wood or paper products that are generated by one-, two-, or three-family residences. <i>Fire must be more than 1,000 feet from neighbor's inhabited building.</i>
Ceremonial fires	Wood stack no larger than 5 ft. high x 5 ft. wide. Duration no longer than three hours. Use clean, seasoned firewood or equivalent. <i>Must notify Ohio EPA in advance.</i>	Wood stack no larger than 5 ft. high x 5 ft. wide. Duration no longer than three hours. No notification required.
Occupational fires: welding torches, heating tar, heating for warmth of outdoor workers and strikers	Use clean, seasoned firewood contained in a 55-gallon drum.	Use clean, seasoned firewood contained in a 55-gallon drum.
Firefighter training, Explosive material disposal	<i>With prior written permission from Ohio EPA. This may take two weeks.</i>	<i>With prior written permission from Ohio EPA. This may take two weeks.</i>
Horticultural, silvicultural, range or wildlife management practices	<i>With prior written permission from Ohio EPA. This may take two weeks.</i>	<i>With prior written permission from Ohio EPA. This may take two weeks.</i>
Disease or pest control	Local health department, the Ohio Department of Agriculture or the U.S. Department of Agriculture verifies to Ohio EPA that open burning is the only appropriate control method and <i>must notify Ohio EPA in advance.</i>	Local health department, the Ohio Department of Agriculture or the U.S. Department of Agriculture verifies to Ohio EPA that open burning is the only appropriate control method.

\*villages and cities are considered "restricted areas," which include:

- within the boundaries of any municipal corporation;
- within corporation limits and a 1,000-foot zone outside any municipal corporation having a population of 1,000 to 10,000; and
- within corporation limits and a one-mile zone outside any municipal corporation with a population of more than 10,000. Call your local municipality for corporation boundaries.



## OhioEPA

### District Offices

- CDO - Central District Office - (800) 686-2330
- NEDO - Northeast District Office - (800) 686-6330
- NWDO - Northwest District Office - (800) 686-6930
- SEDO - Southeast District Office - (800) 686-7330
- SWDO - Southwest District Office - (800) 686-8930

### Local Air Pollution Control Agencies

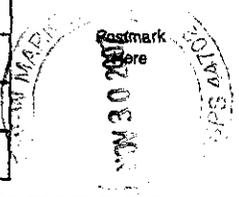
1. Akron Regional Air Quality Management District (800) 589-2480  
[www.ci.akron.oh.us/Health04/divisions.htm](http://www.ci.akron.oh.us/Health04/divisions.htm)
2. Canton Division of Air Pollution Control (330) 489-3231  
[www.cantonhealth.org/air\\_pollution\\_control.htm](http://www.cantonhealth.org/air_pollution_control.htm)
3. Hamilton County Environmental Services (800) 889-0474  
[www.hcdoes.org](http://www.hcdoes.org)
4. Cleveland Division of Air Quality (216) 664-2297  
[www.clevelandhealth.org](http://www.clevelandhealth.org)
5. Regional Air Pollution Control Agency (Dayton Area) (800) 456-2115  
[www.rapca.org](http://www.rapca.org)
6. Lake County Air Pollution Control (440) 350-2543  
[www.lcghd.org](http://www.lcghd.org)
7. Portsmouth Air Pollution Control (740) 353-5156  
[www.ci.portsmouth.oh.us/departments/health/](http://www.ci.portsmouth.oh.us/departments/health/)
8. Toledo Division of Environmental Services (419) 936-3015  
[www.ci.toledo.oh.us/index.cfm?Article=940](http://www.ci.toledo.oh.us/index.cfm?Article=940)
9. Mahoning-Trumbull Air Pollution Control Agency (330) 743-3333  
[www.ychd.com/airpollution.html](http://www.ychd.com/airpollution.html)

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Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	



Sent To  
**THEODORE FLINNER**  
 Street, Apt. No., or PO Box No. **11438 POORMAN ST SW**  
 City, State, ZIP+4 **NAVARRE OH 44662**

PS Form 3800, June 2002 See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**THEODORE FLINNER**  
**11438 POORMAN ST SW**  
**NAVARRE OH 44662**

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
*Myron Flinner*  Addressee

B. Received by (Printed Name) C. Date of Delivery  
*Myron Flinner* *12/1/07*

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number (Transfer from service label) **7005 3110 0000 8720 0004**