

Air Pollution Control Division

Canton City Health Department

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James M. Adams, R.S., MPH
Health Commissioner

Daniel J. Aleman, M.S., PE
APCD Administrator

Ms. Martie J. Blymiller
2406 17th ST NE
Canton, OH 44705
McKinley Township

OhioEPA

APC Contractual Representative
Serving All of Stark County

COPY

Wednesday, September 24, 2008

CERTIFIED MAIL
Stark County

Re: Notice of Violation: The Ohio Administrative Code 3745-19-03; unauthorized illegal open burning in a restricted area.

Dear Ms. Blymiller

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 of investigating and enforcing the Ohio EPA 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.

On Tuesday, September 23, 2008 at 9:09 a.m., I inspected your residential property at 2406 17th ST NE, for unauthorized and illegal open burning evidence that was reported by the Canton City Fire Department (CCFD). According to the CCFD record, you are identified as the resident. Evidence of the illegal open burning evidence was photographed, which shows a violation of The Ohio Administrative Code 3745-19-03.

Since the residential property is located in what the Ohio Administrative Code 3745-19-01 (J) defines as a restricted area, according to The Ohio Administrative Code, 3745-19-03 (B); open burning shall be allowed for the following purposes without notification to or permission from the Ohio EPA; 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:

1. *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;*
2. *They are not used for waste disposal purposes; and*
3. *They shall have a total fuel area of three feet or less in diameter and three feet or less in height.*

The Canton City Fire Department open burning regulations are as follows:

- a. **Application.** **Application for approval of recreational fires shall be verbally submitted to the Fire Prevention Bureau at least forty-eight (48) hours before the fire is set. If a recreational fire is planned for a weekend or holiday, notification shall be given by 4:00 p.m. Friday or by 4:00 p.m. on the last business day before the holiday.** The following information shall be provided at the time the approval is requested:
 1. The purpose of the fire;
 2. The nature and quantities of the material to be burned;
 3. The date, time and duration of the fire;
 4. The location; and
 5. The fire-extinguishing equipment to be provided.
- b. **Location.** The location of the fire shall not be less than fifty (50) feet from any structure.
- c. **Material.** The material shall be of the minimum size for the intended purpose, consist only of seasoned dry firewood and be ignited with a small quantity of paper. The fuel shall be chosen to minimize the generation and emission of air contaminants.

d. **Size and Duration.** A recreational fire shall not be more than 2 ft. X 2 ft. X 2 ft. in dimension and shall not be permitted to burn longer than three (3) hours, unless approved by the Fire Prevention Bureau. All recreational fires shall be extinguished by 11:00 p.m.

e. Attendance. A recreational fire shall be constantly attended until the fire is completely extinguished. Approved extinguishing equipment shall be available for immediate utilization at all times.

(Ordinance 207-200; Passed 9-24-01.)

1513.03 PROHIBITED OPEN BURNING.

- a. No person or property owner shall cause or allow open burning except as provided in Section 1513.02.
- b. If a recreational fire creates or adds to a hazardous or objectionable situation, the Fire Department shall order the property owner or person having control to extinguish the fire. If the property owner or person having control refuses, the Fire Department will extinguish the fire.
- c. If the fire is not a recreational fire which has been approved by the Fire Prevention Bureau, or any other form of open burning for which a permit has been issued by the Air Pollution Control Division of the Canton Health Department, it shall be extinguished and reported to the Air Pollution Control Division of the Canton Health Department.

Be aware that, The Ohio Administrative Code 3745-19-06 Open burning unilateral order;

1. *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 \$250.00 per day for each separate violation of the rules in this chapter for open burning on residential property and not more than \$1,000.00 per day for each separate violation of the rules in this chapter for open burning on industrial, commercial, institutional, or municipal property. Commercial property includes construction sites, including, but not limited to, the construction of residential homes, if the sites are not properly permitted under section 3704.11(C) of the Revised Code. A separate violation is assessed for each day (24-hour period) the violation occurs.*
2. *The director's authority under paragraph (A) of this rule is in addition to, and not in limitation of, the director's authority under section 3704.06 of the Revised Code to request the attorney general to initiate legal action to seek penalties of not more than twenty-five thousand dollars for each day of each violation for the violation of rules in this chapter.*

The state law referenced in this letter issued by this Agency is OAC 3745-19-03 which is authorized by The Ohio Revised Code (ORC) 3704.03 (*Powers of director of environmental protection*). ORC 3704.05; (*Prohibited acts*) is the rule that would be utilized by the law department to seek a penalty by ORC 3704.99 (*Penalties*) of a fine not more than \$25,000.00 or imprisonment of not more than one year, or both, for each violation. Each day the violation continues after a conviction for a violation is a separate offense.

You are strongly advised to conduct any future open burning in strict compliance with the Ohio EPA regulations so as to avoid any further response from this Agency. 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) Photograph taken on 09/23/08 at 9:09 a.m.;
- 2) City of Canton Fire Department Application for recreational fire approval; and
- 3) Ohio EPA Open burning regulations.

Pc:

- 1) Addressee via certified mail, then 1st class in 14 days if unclaimed.
- 2) Open burn file and NOV correspondence file, September 2008.