

# Air Pollution Control Division

## Canton City Health Department

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

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

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

Joe & Jane Fenton  
869 16<sup>th</sup> ST NE  
Massillon, OH 44646

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

Dear Mr. and Mrs. Fenton:

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 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.

On Thursday, February 19, 2009 at 12:05 PM., I inspected commercial property that according to property tax records is owned by you at 907 1<sup>st</sup> ST NE, in Massillon for illegal open burning. In the rear yard of the multi-unit apartment building, a large burn area was observed to contain a mattress.

Since this 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 natural 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 two feet or less in height.*

According to the Ohio EPA; 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. 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 particulate matter, sulfur dioxide, lead and mercury. These pollutants have been linked to several health problems, including asthma, respiratory illnesses, nervous system damage, kidney and liver damage, and reproductive or developmental disorders.

**OhioEPA**

APC Contractual Representative  
Serving All of Stark County

**COPY**

Thursday, February 19, 2009

Certified Mail  
Stark County

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 3745-19-04 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.

Regards,



Denny Tan

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

Enc:

- 1) OAC 3745-19-03;
- 2) US EPA "The Hidden Hazards of Backyard Burning"

Pc:

- 1) Open burn file; and
- 2) NOV Correspondence file, February 2009.

DT / dt

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Sent To: **JOE & JANE FENTON**  
 Street, Apt. No., or PO Box No. **869 16TH ST NE**  
 City, State, ZIP+4 **MASSILLON, OH 44646**

PS Form 3800, June 2002 See Reverse for Instructions

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- Print your name and address on the reverse so that we can return the card to you.
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1. Article Addressed to:

JOE & JANE FENTON  
 369 16TH ST NE  
 MASSILLON, OH 44646

2. Article Number  
 (Transfer from service label)

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A. Signature  
*Jane Fenton*  Agent  Addressee

B. Received by (Printed Name)  
*JANE FENTON*

C. Date of Delivery  
*2-23-03*

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4. Restricted Delivery? (Extra Fee)  Yes

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