

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

OhioEPA

APC Contractual Representative
Serving All of Stark County

COPY

CERTIFIED MAIL

Monday, April 21, 2008

Mr. Mark Miller
3244 Rayanna ST
Massillon, OH 44646

**Re: NOTICE OF VIOLATION: OHIO ADMINISTRATIVE CODE 3745-19-04;
UNAUTHORIZED ILLEGAL OPEN BURNING IN AN UNRESTRICTED AREA.**

Dear Mr. Miller:

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.

On Friday, April 18, 2008 at 9:03 AM, I inspected your property at 6021 Muffly AVE SW, located in Sugarcreek Township of Stark County. During this inspection, I obtained visual and photographic evidence of the open burning for waste disposal in a large dug-out area behind the demolished residence. Items of evidence photographed found were; partially burnt demolition items, and a mattress.

Since this residence is located in what the Ohio EPA defines as an unrestricted area, according to The Ohio Administrative Code 3745-19-04; 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 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.*

Permission to individuals and notification to the Ohio EPA of an open burning is made pursuant to The Ohio Administrative Code 3745-19-05. An Attached Open Burning Request Form is attached.

A. Permission

1. An application for permission to open burn shall be submitted in writing at least ten working days before the fire is to be set. Saturday, Sunday, and legal holidays shall not be considered a working day. It shall be in such form and contain such information as required by the Ohio EPA.
2. Except as provided in paragraph (A)(6) and (A)(7) of this rule, such applications shall contain, as a minimum, information regarding:
 - a. The purpose of the proposed burning;
 - b. The nature of quantities of material to be burned;
 - c. The date or dates when such burning will take place;
 - d. The location of the burning site, including a map showing distances to residences, populated areas, roadways, air fields, and other pertinent landmarks; and
 - e. The methods or actions which will be taken to reduce the emissions of air contaminants.
3. Permission to open burn shall not be granted unless the applicant demonstrates to the satisfaction of the Ohio EPA that open burning is necessary to the public interest; will be conducted in a time, place, and manner as to minimize the emission of air contaminants; and will have no serious detrimental effect upon adjacent properties or the occupants thereof. The Ohio EPA may impose such conditions as may be necessary to accomplish the purpose of Chapter 3745-19 of the Administrative Code.

B. Notification:

1. Notification shall be submitted in writing at least ten working days before the fire is to be set. Saturday, Sunday, and legal holidays shall not be considered a working day. It shall be in such form and contain such information as shall be required by the Ohio EPA.
2. Such notification shall inform the Ohio EPA regarding:
 - a. The purpose of the proposed burning;
 - b. The nature and quantities of materials to be burned;
 - c. The date or dates when such burning will take place; and
 - d. The location of the burning site.
3. The Ohio EPA, after receiving notification, may determine that the open burning is not allowed under Chapter 3745-19 of the Administrative Code and the Ohio EPA shall notify the applicant to this effect.

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 \$25,000.00 for each day of each violation for the violation of rules in this chapter.*

Additional important information to note:

- The Ohio Department of Natural Resources has statutory authority for reviewing requests to conduct prescribed burns (e.g., burning off fields to promote prairie grasses). In addition, concerned with the potential for brush and forest fires, the ODNR Division of Forestry prohibits outdoor burning in rural areas between the hours of 6 a.m. and 6 p.m. during the typically dry months of March, April, May, October and November. So, regardless of if Ohio EPA grants permission to open burn from an environmental perspective, if you live in an unincorporated area, ODNR may deny permission to burn during these times/months due to fire safety concerns.

For more information, see the following ODNR resources:

<http://www.dnr.state.oh.us/Portals/18/fire/pdf/OhioFireLaw.pdf>
<http://www.dnr.state.oh.us/forestry/Home/fire/wildfire/tabid/5146/Default.aspx>

- Some local jurisdictions may have additional restrictions on burning materials or burning at times that are otherwise approvable under Ohio EPA's open burning rules. The following links can be used to access Ohio township and city/village websites:

Townships via the Ohio Township Association
<http://cpmra.muohio.edu/otaohio/Websites.htm>
Cities & Villages via the Ohio Municipal League
<http://www.omloho.org/OMLMunicipalData/omlmunidata.htm>

This agency strongly advises you 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) 4 Photographs taken on 04/17/08 at 8:43 AM
- 2) The Hidden Hazards of Backyard Burning
- 3) Open Burning Request Form

Pc:

- 1) Addressee via certified mail
- 2) Open burn file
- 3) NOV Correspondence file (April 2008)
- 4) Brewster Fire Department – Chief Dale Starcher – 110 East Main ST, Brewster, OH 44613

DT / dt



6021 Muffly AVE SW, OH 44662 – Sugarcreek TWP. Photo taken by Ohio EPA Staff Field Inspector II, Denny Tan on 04/18/08 at 9:03 AM.

Photo shows demolished home at 6021 Muffly AVE SW, Navarre, OH.



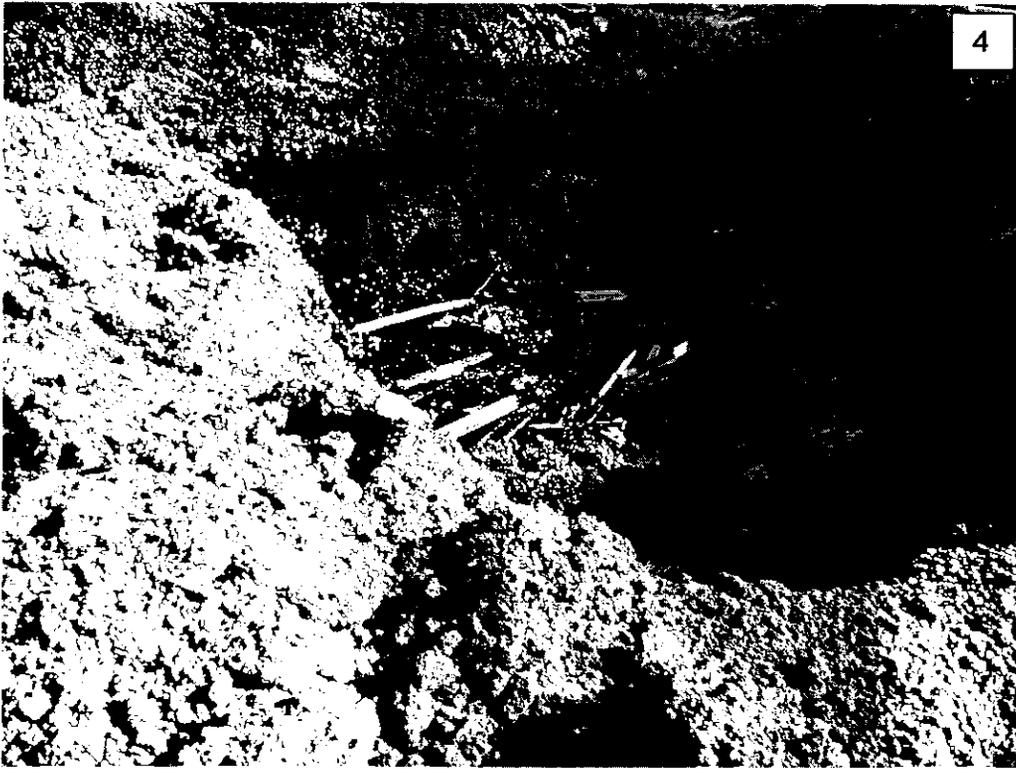
6021 Muffly AVE SW, OH 44662 – Sugarcreek TWP. Photo taken by Ohio EPA Staff Field Inspector II, Denny Tan on 04/18/08 at 9:03 AM.

Photo shows demolished home at 6021 Muffly AVE SW, Navarre, OH.



6021 Muffly AVE SW, OH 44662 – Sugarcreek TWP. Photo taken by Ohio EPA Staff Field Inspector II, Denny Tan on 04/18/08 at 9:03 AM.

Photo shows demolished home at 6021 Muffly AVE SW, Navarre, OH and taped off open burn area.



6021 Muffly AVE SW, OH 44662 – Sugarcreek TWP. Photo taken by Ohio EPA Staff Field Inspector II, Denny Tan on 04/18/08 at 9:03 AM. Photo shows open burning evidence of residential waste for disposal at rear of property from demolished home.

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Total Postage & Fees	\$ 5.38



Sent to
 MR. MARK MILLER
 Street, Apt. No., or P.O. Box No. 3244 RAYANNA ST
 City, State, ZIP+4 MASSILLON OH 44646

PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> 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. 	<p>A. Signature X <i>Angela Miller</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Angela Miller</i> C. Date of Delivery <i>5-1-08</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes if YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p>MR. MARK MILLER 3244 RAYANNA ST MASSILLON OH 44646</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7008 0150 0001 8204 8499</p>