

Air Pollution Control Division

Ohio | Environmental
Protection Agency
APC Contractual Representative
Serving All of Stark County

Canton City Health Department

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Terri A. Dzienis
APCD Administrator

James M. Adams, RS, MPH
Health Commissioner

November 20, 2012

CERTIFIED MAIL

Jay & Christine Linder
3515 Kenyon NW
Massillon, OH 44647

**Re: NOTICE OF VIOLATION OF OHIO ADMINISTRATIVE CODE 3745-19-04;
unauthorized illegal open burning in an unrestricted area; Significant Violation**

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 have the authority to investigate and enforce Ohio EPA air pollution regulations.

On Friday, October 26, 2012, the North Lawrence Volunteer Fire Department (NLVFD) responded to a large outdoor fire at your residence. Per the NLVFD fire report, a total of 2 ½ to 3 acres burned. The occupant, Christine Linder, admitted that she was burning trash at the time of the incident and that may have ignited the woods. NLVFD reported the fire to our office on October 31, 2012. On Thursday, November 1, 2012, Denny Tan, Monitoring & Inspection Supervisor, and I visited the home of the owner, Donald Frank, at 3838 Kenyon NW in an attempt to find the burn area. Mr. Frank was not home and we did not find the area.

On Tuesday, November 6 at approximately 9:45 a.m., I visited your residence at 3515 Kenyon NW, and found and photographed the burn area. You were not home, so my business card was left at your front door. The main burn area was approximately 9 to 10 feet in diameter. It contained items such as burned food cans, diapers, plastic and glass beverage containers, building materials, light bulbs, and a bag of trash not yet burned.

Below is a summary of the findings, violations, and requested actions that need to be addressed as a result of the investigation by the Canton City Health Department, Air Pollution Control Division:

Finding 1:

On October 26, 2012, trash was burned at 3515 Kenyon NW. Jay and Christine Linder occupy the residence at this address. According to the report from the North Lawrence Volunteer Fire Department, *the occupant stated she was burning trash and that may have ignited the woods.*

Violation of:

Occupants, Jay and Christine Linder, are in violation of Ohio Administrative Code (OAC) 3745-19-04(A), which states:

"No person...shall cause or allow open burning in an unrestricted area except as provided in paragraphs (B) to (D) of this rule or in section 3704.11 of the Revised Code."

Since the fire was used for waste disposal, Jay and Christine Linder are also in violation of OAC 3745-19-04(B)(2)(b) which states that:

Open burning shall be allowed if the fire is "not used for waste disposal purposes"

Finding 2:

The burn area contained building materials and plastic items such as diapers and plastic beverage containers. It also contained burned food cans and glass beverage containers. OAC 3745-19-04(B)(3) states that:

"open burning shall be allowed for...disposal of residential waste...generated on the premises."

Residential waste is defined in OAC 3745-19-01(J) as

"any waste material, including landscape waste, generated on the property of a one-, two- or three-family residence as a result of residential activities, but not including garbage, rubber, grease, asphalt, liquid petroleum products, or plastics."

Garbage is defined in OAC 3745-19-01(D) as

"any waste material resulting from the handling, processing, preparation, cooking and consumption of food or food products."

Violation of:

Due to the nature of the materials that were burned, Jay and Christine Linder are in violation of OAC 3745-19-04(B)(3) and OAC 3745-19-04(B)(3)(e) which states that:

"No materials are burned which contain rubber, grease, asphalt, liquid petroleum products, plastics or building materials."

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.

Finding 3:

The burn area at 3515 Kenyon NW is located within 370 feet of the home at 3691 Kenyon NW.

Violation of:

Occupants, Jay and Christine Linder, are in violation of OAC 3745-19-04(B)(3)(c) which states:

"Open burning shall be allowed for...disposal of residential waste or agricultural waste generated on the premises if...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."

Requested Action & Enforcement:

This agency requests your cooperation by ceasing any open burning in violation of Ohio EPA regulations.

Be advised that the Ohio EPA does have the authority to penalize fines of up to \$250 per day to citizens for open burning violations, and does have the authority to request the attorney general to initiate legal action to seek additional penalties of up to \$25,000. This letter or information pursuant to this letter does not constitute a waiver of Ohio EPA's authority to seek civil penalties as provided in Section 3704.06 of the Ohio Revised Code. Ohio EPA will determine later whether to pursue such penalties in this case.

Please be advised that this office is forwarding all case-related information to Ohio EPA for further enforcement action.

Sincerely,



Linda Morckel
Monitoring & Inspections Technician, Air Pollution Control

Enclosure: OAC 3745-19-04, photo documentation

cc: Lawrence Twp Fire Dept, Attn Shawn Yerian, 5828 Manchester Rd NW, North Lawrence, OH 44666
Bruce Weinberg, OEPA DAPC, PO Box 1049, Columbus, OH 43216-1049
Brian Dickens, USEPA Region 5, 77 W Jackson Blvd, Chicago, IL 60604
Donald Frank, 3515 Kenyon NW, Massillon, OH 44647
Correspondence
Complaints File, Open Burning, Lawrence Township