

Record of Ordinances

Ordinance No.: 2009-15

Passed: May 11, 2009

**AN ORDINANCE AMENDING ORDINANCE 77-94, 85-11, 2001-09, 2006-08 & 2007-07 TO
PROVIDE FOR MAINTENANCE OF ANY DILAPIDATED STRUCTURE OR ANY
UNSANITARY PREMISES OR NOXIOUS REAL ESTATE, PROVIDING FOR
ERADICATION OF NUISANCES, PROVIDING DEFINITIONS, PENALTIES, AND
PROVIDING FOR ABATEMENT
Section 660.14 to 660.21**

WHEREAS Council for the Village of West Lafayette, the Mayor, and Village Administrator have declared certain privately owned areas of the Village to be in need of clean up, maintenance, and repair; NOW THEREFORE be it ordained by the Council of the Village of West Lafayette, State of Ohio as follows:

SECTION I [660.14] (a) DILAPIDATED STRUCTURE – That no person, corporation, or other legal entity, all herein after referred to as person, shall permit any premises within the Village of West Lafayette, Ohio, to exist nor shall any person occupy a premises within the Village of West Lafayette, Ohio, in such a state of disrepair or deteriorating condition as defined below as to be considered to be a nuisance or a hazard to the health or safety of persons residing in the vicinity of said structure or of passersby.

SECTION II [660.15] (a) DETERIORATING CONDITION – That, without limitation, any of the following conditions shall be considered to be a nuisance and the structure deemed to be in a state of disrepair or deteriorating condition.

- (1) Loose bricks or other building materials loose or displaced from exterior walls or chimneys.
- (2) Cornices, gutters, or downspouts, which are loose and sagging or have fallen from the structure.
- (3) Windows containing broken or jagged glass.
- (4) Open holes upon the exterior of the structure whereby the interior can be viewed, or the interior walls can be seen.
- (5) Exterior stairs, porches, balconies or steps which are in such a condition as to be unsafe to persons using them or to a passerby. The fact, that such person using the stairs, porch, balcony or step is a trespasser is no defense for purposes of this ordinance.
- (6) Foundations and retaining walls caving in.
- (7) Any detached structures collapsed or in the process of falling down.
- (8) Any structure which is unoccupied and does not have windows, doors, or other openings properly locked and secured. Unoccupied shall be defined as not lived in, vacant, or unused for a period of ninety or more consecutive days.

- (9) Pipes, ducts, conductors, fans, or blowers shall not discharge gases, steam vapor, hot air, grease, smoke, odors or other gas cause or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant in the same property.
- (10) All accessory structures; including without limitation, detached garages, fences, and walls shall be maintained structurally and in good repair.
- (11) No property will exhibit on the exterior and in view of the public, carvings, marking, or graffiti for more time than is reasonably necessary to remove it. Seven days or more will be prima facie evidence of time reasonably necessary to remove the carvings, markings, or graffiti.
- (12) All exterior wood surfaces, excepting decay resistant woods, shall be protected from the elements and decay by painting or by placing other wood protective covering or treatment on the exterior. Peeling, flaking, and chipped paint will be eliminated and surfaces repainted or covered with appropriate siding materials.
- (13) All hand rails and guards will be firmly sustained and capable of supporting normally imposed loads and shall be maintained in good condition.
- (14) All vacant lands and yards or lawns surrounding or adjacent to structures shall be maintained in a clean, safe, sanitary condition so as not to cause a blighting problem or adversely affect the public health or safety.

SECTION III [660.16] (a) UNSANITARY OR UNSIGHTLY PREMISES – That no person, corporation, or other legal entity shall permit any premises within the Village of West Lafayette, Ohio, to exist nor shall any person occupy a premises within the Village of West Lafayette, Ohio, in such a state of unsanitariness or unsightliness as to be considered to be a nuisance or a hazard to the health or safety of persons residing in the vicinity of said structure or of passersby.

SECTION IV [660.17] (a) UNSANITARY OR UNSIGHTLY PREMISES – That the accumulation of any of the following outside or inside a building or enclosed permanent structure affixed to the real estate shall be considered to be a nuisance and the maintenance of the premises in an unsanitary or unsightly condition.

- (1) **Garbage:** Any and all kitchen or other organic refuse; including, but not limited to, animal, fish, fowl, fruit, or other animal or vegetable matter, decaying or spoiled meats or vegetable matter, or any substance or thing whatsoever which may decompose or become offensive or dangerous to health, or that has become so; and shall include, but not be limited to, every refuse accumulation of animal, fish, fowl, fruit, or animal or vegetable matter, liquid or otherwise, that attends the preparation, use, cooking, dealing in, or storing of milk or milk products, meat, fish, fowl, fruit, or animal or vegetable matter, and all putrescible waste, sewage and body waste; including, but not limited to, vegetable and animal offal and carcasses of small dead animals.
- (2) **Refuse:** Nonputrescible non-liquid wastes; including but not limited to, ashes, cinders, tin cans, glass, bottles, rags, wastepaper, wood and paper boxes, grass, tree and shrub trimmings, tree and shrub stumps, large household objects,

including but not limited to, furniture, appliances, bricks, concrete, dirt, rocks, sand, gravel, and remodeling materials.

- (3) Rubbish: Any and all materials and substances that can attract and/or provide breeding, nesting, nourishment, food or habitat to rodents, vermin, insects, or any other pests, or which can create sanitation or health problems. The existence of cockroaches in materials removed from premises will create a presumption of a nuisance in the premises. The existence of rats or mice observed going in or out of the premises in a continuous manner will create a presumption of a nuisance in the premises.
- (4) Trash: Any and all materials and substances or accumulations of any sort whatsoever, which create an eyesore, which is defined for the purposes of this ordinance as unsightly, unpleasant or offensive to view to the general public. No materials shall be deemed trash for the purposes of this ordinance if they are raw materials stored to be used in the production process, work in process, inventories or finished products held for sale which are temporarily stored on the premises of manufacturing or retail sales or wholesale business establishments.
- (5) Infection and Communicable Disease: Any structure or building or any portion thereof used for human habitation shall be deemed to be in an unclean and unsanitary condition by reason of the absence therein of working toilet facilities, or by reason of the known presence of sewer gas therein or thereon.
- (6) Unfit for Human Habitation: Any structure or building or any portion thereof used for human habitation shall be deemed to be in an unclean and unsanitary condition and unfit for human habitation when in a condition dangerous or harmful to the lives or health of the occupants by reason of the inhabited portion of the house being damp or wet or by reason of such lack of repair, or by reason of such accumulation of dirt, filth, litter, refuse or other offensive or dangerous substances or liquids, or by reason of such defects in or lack of repair of or improper use of the drainage, plumbing, or ventilation, or by reason of the existence on the premises of such a nuisance or other condition as is likely to cause sickness among the occupants. Any structure or building or any portion thereof, used for human habitation, which is in such unclean or unsanitary condition and unfit for human habitation is hereby declared to constitute a public nuisance.

No person, firm or corporation shall be deemed to be maintaining unsanitary or unsightly premises if the garbage, refuse, rubbish, or trash which is situated outside a building or enclosed structure is maintained in sanitary receptacles and/or garbage bags and is in fact picked up for disposal or destruction or otherwise removed for destruction or disposal from the premises within two days after being placed outside a building. The fact that such garbage, refuse, rubbish, or trash may have some monetary value shall be no defense to the charge of violating the provisions of this ordinance.

SECTION V [660.18] (a) **NOXIOUS REAL ESTATE** - That the owner of a vacant lot, common or other unoccupied or occupied property within the Village of West Lafayette, Ohio, shall hereby be required to cut, mow, keep down, or remove all grass and weeds in excess of eight (8) inches, unsightly, or noxious weeds, vines or grass, scrub trees; including but not limited to, sumac on the property, the weeds, vines, grass, or scrub trees being deemed a

breeding place for rats, mosquitoes, and other insects and being unsafe, unhealthy, and a nuisance. Any failure to comply with provisions of this Section shall constitute a nuisance.

(b) The placing of any lawn clippings, grass, leaves, trees, tree limbs, or any other material into the street or alley shall constitute a nuisance.

(c) A Property Maintenance & Inspection Committee is created by this ordinance. The Property Maintenance & Inspection Committee will include without limitation the Village Administrator, the Chief of the West Lafayette Volunteer Fire Department, and such other third persons as the other two designate. Other persons having experience with a particular condition may also be requested to assist by the Village Administrator and Fire Chief.

Any person may file a complaint regarding an alleged violation of this ordinance in writing at the Village Administration Offices. The complaint must be in writing, but the complainant will not be required to sign the complaint. A complaint form will be provided. A complaint form is attached hereto and is incorporated herein by reference.

The complaint form will be delivered to the Property Maintenance & Inspection Committee. The Committee will meet with the owner or occupant of the property and inspect the property and if violations of the ordinance are alleged to be preliminarily verified, a preliminary citation will be given to the owner or occupant. A copy of the preliminary citation will always be mailed to the owner at his last known address if the owner is not the occupant. If an inspection is not permitted a search warrant may be requested by the Property Maintenance & Inspection Committee. If there is evidence of an emergency condition that presents probable cause that there may be a danger to persons or a neighbor's property, then emergency entry into the property will be permitted without a search warrant provided the emergency entry shall cease and all persons will remove themselves if no emergency condition is found to be existent or as soon as the emergency condition is eliminated. If the owner or occupant agrees to comply and abate the alleged violations the Property Maintenance & Inspection Committee is authorized and directed to provide the owner or occupant with a schedule for the abatement to be completed. A written copy of the schedule will be mailed to the owner if the owner is not the occupant. Two-thirds approval is necessary for action by the committee. The Chief of Police may declare an emergency and take action without approval of the committee.

(d) If the owner or occupant objects to the requested abatement or the abatement schedule the owner or occupant may request a hearing with the Mayor. The Mayor may delegate the conduct of the hearing to another person.

The person requesting the hearing may bring a personal representative to the hearing and may present evidence in the form of witnesses or sworn affidavits concerning the alleged violation or inability to follow the schedule of abatement as designated by the Property Maintenance & Inspection Committee. The hearing request form is attached hereto and is incorporated herein by reference.

The request for a hearing will be filed with in fifteen (15) days receipt of the preliminary citation. The hearing will take place within fifteen (15) days receipt of the request for hearing in council chambers. The decision will be mailed to the occupant and owner, if the owner is not the occupant, within fifteen (15) days. If the hearing officer decides against the owner or occupant then the decision will contain a new abatement schedule.

If the owner or occupant fails to comply with the abatement schedule after a hearing or fails to comply with his voluntary abatement plan as approved by the Property Maintenance & Inspection Committee it will refer the matter to council for a determination as to whether to refer the matter to the Village Solicitor for injunctive proceedings or review by the Coshocton County Board of Health; or, to refer the matter to the West Lafayette Police Department for issuance of a citation and complaint.

SECTION VI [660.19] (a) ABATEMENT OR VACATION OF PREMISES – In addition to other provisions of this ordinance, a person, or other legal entity who permits a dilapidated structure to exist, structure to be in deteriorating condition, a nuisance to exist, premises to be unsanitary or unsightly, or noxious, may be subject to an order for abatement by the County Board of Health.

- (1) Whenever the board of health of the county ascertains from examination or reports of its inspectors or sanitary officers or otherwise that a public nuisance exists, as defined in this ordinance, in or upon any structure of building, or portion thereof, and is of the opinion that such nuisance is capable of being abated with immediate vacation of the premises or such portion thereof, and serves notice in writing upon the owner of such premises, or his lessee or agent, or the person in possession, charge or control thereof directing him to abate such nuisance and remove the unclean or unsanitary conditions within such reasonable time as may be fixed by said board and specified in said notice, it shall then be the duty of such owner, agent or person to abate such nuisance within said time. Nuisance shall be defined as any condition which is a violation of this ordinance because of dilapidated structure, deteriorating conditions, unsanitary or unsightly conditions, or noxious real estate. Whenever such abatement does not take place within such time, or wherever in the opinion of said board, such abatement is impossible or impracticable without an immediate vacation of the premises or portion thereof and said board serves notice in writing upon the owner, lessee, agent, or person in possession, charge or control thereof to vacate or cause the vacation of such premises or portion thereof designated in the notice, then it shall be the duty of such owner, lessee, agent or person to vacate or cause the vacation of such premises or portion thereof within twenty days from the date of the service of such notice, or within a shorter time (not less than twenty-four hours in any case) as may be specified in said notice. Whenever, either in addition to or without the service of said notices on said owner, lessee, agent or person in possession, charge or control, the said board is of the opinion that such nuisance can be abated by a tenant or other occupant of such premises or portion thereof, and such notices, either for abatement of the nuisance or of vacation of the premises, are served upon such tenant or other occupant, then it shall be the duty of such tenant or other occupant to comply with the terms of such notices and to abate the nuisance or vacate the premises accordingly. After any such notice or order of vacation it shall be unlawful to occupy or permit the occupancy of such premises or portion thereof until such nuisance shall have been completely abated and such building or portion thereof shall have been rendered clean and sanitary in accordance with the terms of said notices of the board of health. When there is no owner, agent, lessee, or person in charge, possession or control, who is a resident of or can be served in the municipality, then personal service outside of said municipality on any such owner, agent, lessee or person in charge, possession or control, by anyone delegated by said board of health to make such service, or by certified letter, or if the address of the owner, lessee, agent or person in

possession charge or control be unknown, or if service be not secured by certified letter after effort to do so, by notice by publication once a week for two consecutive weeks in any newspaper of general circulation in the municipality, or posting or attaching to or on the outside of said structure or building of a copy of the notice or order consecutively for two weeks, shall have the same effect as service within said municipality.

- (2) When the notice or order of vacation follows a notice or order of abatement, as provided in this ordinance, such notice or order of vacation shall not be enforced as provided in this chapter, unless said notice or order of abatement specifies a time when the person so notified or ordered may appear before the board or officer issuing same to show cause why such order or notice of vacation should not be issued and unless said board (or a majority thereof) or officer is present at its or his office at the time so specified; such time to be not less than 24 hours after the service of the notice or order. When the notice or order of vacation is issued as provided in this ordinance, without a previous notice or order of abatement, such notice or order of vacation shall not be enforced as provided in this chapter unless it specifies a time, not less than 5 days after the service thereof, when the person so notified or ordered may appear before the board issuing same to show cause why such notice or order should not be enforced, and said board or a majority thereof is present at its office at the time so specified; provided that when, in the opinion of at least 4/5 of the members of such board, an emergency exists which requires, for the protection of the health of occupants, the vacation of the building or portion thereof without a delay of 5 days, then no such fixing of a time for hearing shall be required.
- (3) Whenever such procedure, in the opinion of the board of health is desirable or necessary, said board of health may affix conspicuously on the buildings or part thereof the notice or order of vacation.
- (4) When the notice or order of vacation has not been complied with, and the board of health certifies such fact to the chief of the municipality, together with a copy of the order of notice, it shall be the duty of said chief to enforce such notice or order of vacation and to cause the said premises to be vacated in accordance with the terms of such notice or order.
- (5) Whenever the board of health shall certify to the solicitor any failure to comply with and such order or notice of vacation, with the request that civil proceedings for the enforcement thereof be instituted, the solicitor shall institute any and all proceedings, either legal or equitable, that may be appropriate or necessary for the enforcement of such order or notice and the abatement of the nuisance against which such order or notice was directed; such suits or proceedings to be brought in the name of the municipality. Proceedings under this section shall not relieve any party defendant from criminal prosecution or punishment under this code or any other criminal law or ordinance in force with the municipality.
- (6) Action by the Board of Health will not preclude independent action by the Village of West Lafayette.

SECTION VII [660.20] (a) PENALTY PROVISION – That any person, or other legal entity found to be guilty of violating any of the terms or provisions of this ordinance shall be deemed to be guilty of a minor misdemeanor with a penalty therefore by being a fine not to

exceed One Hundred Fifty and 00/100 (\$150.00) Dollars and court costs, and potential community service for a first offense. For a second violation of the terms of this ordinance, within one year, the penalty will be a fourth degree misdemeanor punishable by incarceration in the Coshocton County Justice Center for a term not to exceed thirty (30) days, a fine not to exceed Two Hundred Fifty and 00/100 (\$250.00) Dollars and potential community service. For a third or subsequent violation of the terms of this ordinance, within one year, the penalty will be a third degree misdemeanor punishable by incarceration in the Coshocton County Justice Center for a term not to exceed sixty (60) days, a fine not to exceed Five Hundred and 00/100 (\$500.00) Dollars, and potential community service. This ordinance is deemed to be a strict liability ordinance.

SECTION VIII [660.21] (b) MUNICIPAL ABATEMENT, ASSESSMENT OF COSTS. - In addition to abatement remedies listed at Section VI [660.19], the Village of West Lafayette, Ohio shall have the power to abate and remove all violations of these sections and assess the costs and expenses of abatement on the property where the violation is situated. The assessment when duly certified by the Village Fiscal Officer to the County of Coshocton Auditor shall become a lien to be collected in the same manner as any other tax in favor of the Village. The Village shall also have the power to compel the proprietor, owner, agent, assignee, occupant or tenant of the lot or property, house or building on or in which any violation is occurring to abate and remove the violation. Municipal abatement and assessment of costs may occur after a preliminary citation has been given, an oral hearing has been given if requested, a complaint and finding of guilt has been made by the Municipal Court of Coshocton County, Ohio or an injunction has been granted by the Common Pleas Court of Coshocton County and thereafter the person who has been given the original preliminary citation fails to abate the condition for a period of sixty (60) days. In lieu of placing the abatement expenses on the real estate tax bill of the person who was given the original preliminary citation the Village of West Lafayette may sue the person and after having received judgment proceed with all means of collection.

SECTION IX. SEPARABILITY - That if any provision of this ordinance shall be declared invalid or void, all other provisions of this ordinance shall remain in full force and effect. The Council for the Village of West Lafayette, Ohio shall decide which Section of this ordinance to proceed upon. Failure to follow a specific section shall not preclude enforcement under another section.

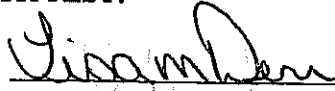
SECTION X. AMENDMENT OR PRIOR PROVISIONS - All ordinances in conflict herewith; including but not limited to, Ordinance No. 77-94, 85-11, 2001-09, 2006-08 and 2007-07 shall be and herewith are amended accordingly. This ordinance shall be known and be part of the Village of West Lafayette Code of Ordinance as Sections 660.14, 660.15, 660.16, 660.17, 660.18, 660.19, 660.20, and 660.21.

SECTION XI. PASSAGE - That this ordinance shall take effect and be in force immediately upon its passage by Council and publication by the Clerk-Fiscal Officer.

PASSED IN COUNCIL THIS 11th day of May, 2009.

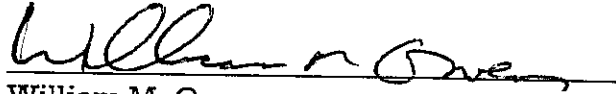

Jack L. Patterson, Mayor

ATTEST:



Lisa Derr, Fiscal Officer

APPROVED AS TO FORM:



William M. Owens

Solicitor for the Village of West Lafayette, Ohio

VILLAGE OF WEST LAFAYETTE
113 EAST RAILROAD STREET
WEST LAFAYETTE, OHIO 43845
740-545-7834

Preliminary Citation and Notice to Abate Violations

To: _____

Address: _____

The Property Maintenance & Inspection Committee has received a complaint that you may be in violation of Section 660.14 through 660.21 of the Codified Ordinances for the Village of West Lafayette, Ohio. Your violation(s) are alleged as follows. To investigate the allegation the Committee would like to inspect your premises on the _____ day of _____, 2009, at _____ o'clock ____ M. If you wish a hearing on this matter to object to the allegation or schedule of abatement, you may request one using the Request for Hearing form to be given to you.

- 1) _____
- 2) _____
- 3) _____
- 4) _____
- 5) _____
- 6) _____
- 7) _____
- 8) _____
- 9) _____
- 10) _____

Failure to correct these violations within the abatement schedule to be given to you may result in a citation to the Municipal Court of Coshocton County, Ohio for a violation of Section 660.14 through 660.21 of the Codified Ordinances for the Village of West Lafayette, Ohio, or a referral to Village Council for a resolution to authorize the Village Solicitor to seek injunction relief, or such other action as permitted by the ordinance.

Proof of receipt:

Owner or Occupant

Date

VILLAGE OF WEST LAFAYETTE
113 EAST RAILROAD STREET
WEST LAFAYETTE, OHIO 43845
740-545-7834

**Hearing Request Form Objecting to Preliminary Citation
For Violation of Section 660.14 through 660.21
Code of Ordinances Village of West Lafayette**

The undersigned person believes no violation of Code of Ordinances Section 660.14 through 660.21 of the Village of West Lafayette, Ohio has been committed, or the abatement schedule is unreasonable. A hearing before the Mayor, or his other designee is requested.

The undersigned states his objections to the violation and states how he has attempted to correct the situation. Extra sheets may be attached for additional statements.

- 1) _____
- 2) _____
- 3) _____
- 4) _____
- 5) _____
- 6) _____
- 7) _____
- 8) _____
- 9) _____
- 10) _____

Name

Hearing Notice

Your hearing before the Mayor, or other designee, will take place in Council Chambers the _____ day of _____, 200__m at _____ o'clock ____ M. If this time is not acceptable because of work schedules or previously scheduled appointments, you may call the Village Administrator at the Village Offices or his designee for a new date and time. **You may bring a representative with you.**

**COMPLAINT REGARDING DILAPIDATED STRUCTURE,
UNSANITARY PREMISES, OR NOXIOUS REAL ESTATE**

Complaint Number Assigned: _____

This _____ day of _____, 200__, a written complaint is being made to request abatement or other action.

A complaint is being made regarding one or more of the following conditions.

See boxes checked. For completion definitions refer to Sections II, III or IV

- (1) Loose bricks or other building materials loose or displaced from exterior walls or chimneys.
- (2) Cornices, gutters, or downspouts, which are loose and sagging or have fallen from the structure.
- (3) Windows containing broken or jagged glass.
- (4) Open holes upon the exterior of the structure whereby the interior can be viewed, or the interior walls can be seen.
- (5) Exterior stairs, porches, balconies or steps which are in such a condition as to be unsafe to persons using them or to a passerby.
- (6) Foundations and retaining walls caving in.
- (7) Any detached structures collapsed or in the process of falling down.
- (8) Any structure which is unoccupied and does not have windows, doors, or other openings properly locked and secured.
- (9) Pipes, ducts, conductors, fans, or blowers shall not discharge gases, steam vapor, hot air, grease, smoke, odors or other gas cause or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant in the same property.
- (10) All accessory structures; including without limitation, detached garages, fences, and walls shall be maintained structurally and in good repair.
- (11) No property will exhibit on the exterior and in view of the public, carvings, marking, or graffiti.
- (12) All exterior wood surfaces, excepting decay resistant woods, shall be protected from the elements and decay by painting or by placing other wood protective covering or treatment on the exterior
- (13) All hand rails and guards will be firmly sustained and capable of supporting normally imposed loads and shall be maintained in good condition.
- (14) All vacant lands and yards or lawns surrounding or adjacent to structures shall be maintained in a clean, safe, sanitary condition.
- (15) Garbage: Any and all kitchen or other organic refuse; including, but not limited to, animal, fish, fowl, fruit, or other animal or vegetable matter, decaying or spoiled meats or vegetable matter, or any substance or thing whatsoever which may decompose or become offensive or dangerous to health.
- (16) Refuse: Nonputrescible non-liquid wastes; including but not limited to, ashes, cinders, tin cans, glass, bottles, rags, wastepaper, wood and paper boxes, grass, tree and shrub trimmings, tree and shrub stumps, and large household objects.
- (17) Rubbish: Any and all materials and substances that can attract and/or provide breeding, nesting, nourishment, food or habitat to rodents, vermin, insects, or any other pests, or which can create sanitation or health problems.
- (18) Trash: Any and all materials and substances or accumulations of any sort whatsoever, which create an eyesore, which is defined for the purposes of this ordinance as unsightly, unpleasant or offensive to view to the general public.
- (19) Infection and Communicable Disease: Any structure or building or any portion thereof used for human habitation shall be deemed to be in an unclean and unsanitary condition by reason of the absence therein of working toilet facilities, or by reason of the known presence of sewer gas therein or thereon.
- (20) Unfit for Human Habitation: Any structure or building or any portion thereof used for human habitation shall be deemed to be in an unclean and unsanitary condition and unfit for human habitation.
- (21) Other. Explain: _____

Signature (Optional)

The Property Maintenance & Inspection Committee has investigated the above complaint and recommends the following actions:

Print _____
Signed: _____

The above actions have been inspected on _____ and the following actions are recommended

Print _____
Signed: _____