



CITY OF MILL CITY

AGENDA OF THE CITY COUNCIL

October 25, 2022

City Hall

444 S 1st Avenue

Mill City, Oregon

REGULAR SESSION

1. CALL TO ORDER/FLAG SALUTE 6:30 p.m. Mayor Tim Kirsch

2. CITY COUNCIL ROLL CALL/INTRODUCTION OF STAFF Mayor Tim Kirsch

3. DECLARATIONS OF POTENTIAL CONFLICTS OF INTEREST

4. CONSENT AGENDA:

In order to make more efficient use of meeting time, resolutions, minutes, bills, and other items which are routine in nature and for which no debate is anticipated, shall be placed on the Consent Agenda. Any item placed on the Consent Agenda may be removed for discussion at the request of any council member prior to the time a vote is taken. All remaining items of the Consent Agenda are then disposed of in a single motion to adopt the Consent Agenda. This motion is not debatable. The secretary to the council will then poll the council members individually by a roll call vote. If there are any dissenting votes, each item on the Consent Agenda is then voted on individually by a roll call vote.

Copies of the council packets include more detailed staff reports, letters, resolutions, and other supporting materials. A citizen wishing to review these materials may do so at the Mill City, City Hall or at www.ci.mill-city.or.us/documents/packets.

- a. Approval of Minutes of Regular City Council Meeting of October 11, 2022
- b. Approval of Accounts Payable

5. CITIZEN COMMENTS/QUESTIONS – LIMITED TO THREE (3) MINUTES

6. ORDINANCE NO. 4XX(11) - DANGEROUS & DERELICT BUILDING CODE

7. SE 2ND AVENUE PARKING

8. MEASURE 114

9. OREGON MAYOR'S ASSOCIATION PARTNERSHIP TO SOLVE STATEWIDE HOMELESSNESS

10. MISCELLANEOUS CITY RECORDER ITEMS

- a. Vacation; November 10-18, 2022
- b. Mill City Falls Park/Parking Lot Planting
- c. Railroad I ridge Historic Sign Fence Panel
- d. PFAS Multidistrict Litigation
- e. Other

11. EXECUTIVE SESSION: NONE SCHEDULED

12. ADJOURNMENT

CALENDAR OF UPCOMING CITY MEETINGS & EVENTS

Monday	October 31, 2022	HALLOWEEN	
Tuesday	November 8, 2022	Municipal Court	9:30a.m.
		Council Meeting	6:30p.m.
		ELECTION DAY	
Friday	November 11, 2022	VETERAN'S DAY – CITY HALL CLOSED	
Friday	November 18, 2022	Planning Commission Meeting	8:30a.m.
Monday	November 21, 2022	Special Planning Commission Meeting	6:30p.m.
Tuesday	November 22, 2022	Municipal Court	9:30a.m.
		Council Meeting	6:30p.m.
Thursday	November 24, 2022	THANKSGIVING DAY – CITY HALL CLOSED	
Friday	December 9, 2022	Planning Commission Meeting	8:30a.m.
Tuesday	December 13, 2022	Municipal Court	9:30a.m.
		Council Meeting	6:30p.m.
Monday	December 26, 2022	CHRISTMAS – CITY HALL CLOSED	
Tuesday	December 27, 2022	Municipal Court	9:30a.m.
		Council Meeting	6:30p.m.
Monday	January 2, 2023	NEW YEAR'S DAY – CITY HALL CLOSED	
Tuesday	January 10, 2023	Municipal Court	9:30a.m.
		Council Meeting	6:30p.m.
Monday	January 16, 2023	MARTIN LUTHER KING JR DAY – CITY HALL CLOSED	
Tuesday	January 24, 2023	Municipal Court	9:30a.m.
		City Council	6:30p.m.
Friday	February 10, 2023	Planning Commission Meeting	8:30a.m.
Tuesday	February 14, 2023	Municipal Court	9:30a.m.
		Council Meeting	6:30p.m.
Monday	February 20, 2023	PRESIDENT'S DAY – CITY HALL CLOSED	
Tuesday	February 28, 2023	Municipal Court	9:30a.m.
		Council Meeting	6:30p.m.
Friday	March 10, 2023	Planning Commission Meeting	8:30a.m.
Tuesday	March 14, 2023	Municipal Court	9:30a.m.
		Council Meeting	6:30p.m.
Tuesday	March 28, 2023	Municipal Court	9:30a.m.
		Council Meeting	6:30p.m.

REQUEST FOR COUNCIL ACTION

DATE: October 20, 2022
TO: Mayor Kirsch and City Councilors
FROM: Stacie Cook, MMC, City Recorder
REGARDING: Consent Agenda Items

- a. Approval of Minutes of Regular City Council Meeting of October 11, 2022
- b. Approval of Accounts Payable

**MILL CITY
MINUTES OF THE CITY COUNCIL
Tuesday, October 11, 2022**

Mayor Kirsch opened the meeting at 6:30 PM with the flag salute. Councilors present were Janet Zeyen-Hall, Dawn Plotts, Tony Trout and Steve Winn. Brett Katlong was excused. Staff members in attendance were City Recorder Stacie Cook, City Clerk Tree Fredrickson, and City Attorney Jim McGehee.

Citizens in attendance were Lt. Brian Hardy, LCSO, Jason Saari, Beverly Thacker and Thorin Thacker.

DECLARATIONS OF POTENTIAL CONFLICTS OF INTEREST: Mayor Kirsch stated that anyone who felt they may have a potential conflict with anything on tonight's agenda may say so at this time or at any time during tonight's meeting.

CONSENT AGENDA

Councilor Trout moved and was seconded by **Councilor Zeyen-Hall**, to approve items a; Approval of Minutes of Regular City Council Meeting of September 27, 2022, b; Approval of Accounts Payable, c; Approval of Monthly Revenues & Expenditures Report, September, 2022, and d; Acceptance of TMDL Mercury update. Mrs. Fredrickson polled the council. The motion passed unanimously, (5:0).

LINN COUNTY SHERIFF'S REPORT: Lt. Brian Hardy gave the Linn County Sheriff's report for September stating that five crashes were investigated for the month. The radar trailer was placed in various areas of town, helping deputies identify problem speeding areas.

Lt. Hardy said that numerous complaints have been received concerning a dog at large. Several citations have been issued to the owner. City Attorney Jim McGehee is working on additional charges for the owner as the dog continues to freely run.

Councilor Trout requested confirmation that the person responsible for crashing into parked cars on SE Kingwood Avenue was arrested. Lt. Hardy confirmed that he was.

PUBLIC WORKS REPORT: Mrs. Cook gave a report on the following items:

Pump Report: The unmetered water loss is remaining steady.

Spring St. Generator: The water pump for the Spring St pump station generator has been fixed.

Mill City Falls Park Update: Siegmund Excavation began work removing soil for the retaining wall and dug up an unidentified waterline and electrical lines. After investigation, it was found the waterline is abandoned and the electrical lines are for the bridge lighting and will be placed in the ground at a deeper level.

Mrs. Cook said that many of the trees have been planted at Mill City Falls Park and parking lot. Staff is contacting landscaping companies to request assistance as there are many more trees and plants to plant.

Councilor Plotts said that the Canyon Catalysts will hold a community volunteer day to help with planting on Sunday, October 23rd and Saturday, October 29th.

Vacation: Public Works Supervisor Russ Foltz is on vacation until October 17, 2022.

CITIZEN COMMENTS AND QUESTIONS: SKATE representative Beverly Thacker, SW 11th Ave., presented the Council with a donation check of \$1,000 to be placed in the Skate Park Fund.

Councilor Zeyen-Hall thanked Ms. Thacker for her continued efforts in fielding questions on social media concerning the skate park.

Ms. Thacker said that an open house has been set for Saturday, October 29th at Stewart's Hall to allow citizens to look over plans of the proposed skate park. SKATE is hopeful this event will spark a renewed interest from the community. Mrs. Cook said if notices are provided to her she will include the information for meetings in the monthly City newsletter.

PUBLIC HEARING: None scheduled.

PRESENTATIONS: None.

OLD BUSINESS:

Ordinance No. 4XX (10): Ordinance No. 4XX(10) amends the Comprehensive Plan Map for a parcel in the 48200 block of Lyons-Mill City Drive and rezones it from Industrial to Residential. The ordinance was read for the first time by title only at the September 27, 2022 meeting.

Mrs. Cook said that after adoption of the ordinance, a copy will be sent to Linn County for use during their review process. The ordinance will become effective upon Linn County's adoption of a Board of Commissioner's Order concurring with the City's amendment of the Mill City Comprehensive Plan Map Amendment. If an Order of Concurrence is not completed by December 31, 2023, the Ordinance will be void.

A second reading an enactment are needed to complete the adoption process.

Councilor Plotts moved and was seconded by **Councilor Zeyen-Hall**, to Read Ordinance No. 410 for Second Reading by Title Only. The motion passed unanimously, (5:0).

Mrs. Cook read the ordinance by title only.

Councilor Zeyen-Hall moved and was seconded by **Councilor Trout**, to Enact Ordinance No. 410 and to Direct Mayor Kirsch to Sign the Ordinance as Enacted. The motion passed unanimously, (5:0).

Water Project Update: The contract has been signed for Phase 2 of the waterline replacement project. Once staff has verified all required paperwork has been submitted, a notice to proceed will be issued and a pre-construction meeting will be set.

Cedar Creek Bridge Update: The City has 30% plans for the Cedar Creek Bridge replacement project. After reviewing the plans, staff provided comments to Linn County. Linn County is in the process of finding a consultant for the environmental work. A spring 2023 bid/construction is being aimed for.

NEW BUSINESS:

Quatrefoil Inc – Mill City Falls – Phase 2 Landscape Architect Proposal: Brian Bainnson, Quatrefoil Inc, provided a proposal for landscape architectural services for Mill City Falls Park - Phase 2. Total cost is \$18,100.

The scope of work wil include design development, interpretive signage and wayfinding, construction documents and construction administration.

Councilor Plotts said that she is concerned about parking availability in this area.

Councilor Trout asked about the limited parking that the City was considering. Mrs. Cook said that she was in contact with ODOT about this, however, with COVID and the wildfires, the process has halted.

Councilor Trout moved and was seconded by **Councilor Plotts**, to Approve Proposal for Landscape Architect Services for Mill City Falls Park – Phase 2, in the Amount of \$18,100. The motion passed unanimously, (5:0).

SE 2nd Ave. Parking: Held to next meeting.

Request for Modification to Cannabis Retail Operating Hours: Thorin Thacker, co-owner Canyon Cannabis requested that the Council consider a change in allowed operating hours for cannabis businesses. The City's zoning code restricts the hours of operation from 9 AM to 7 PM, while OLCC allow a cannabis business to be open between 7 AM and 10 PM. Mr. Thacker requested that the City consider mirroring OLCCs hours.

Mr. Thacker said with extended hours more employees may be hired and special events could be held.

Mayor Kirsch said that he sees no problem with extending the hours as businesses should be able to regulate themselves.

Councilor Trout concurred with Mayor Kirsch, noting the lack of police activity and zero complaints from OLCC for Mr. Thacker's business.

Mrs. Cook said if Council wishes to move forward with this request, now is an opportune time as staff is preparing a modification to the code to address time, place, manner for psilocybin and can add this change to the ordinance.

Council consensus to modify the City's code to mirror OLCC allowed operating hours.

Bathymetric Survey: Mrs. Cook said that as part of the Mill City Falls Park – Phase 2 process geotechnical engineering will need to be completed as the embankment along the north side of the river at Mill City Falls Park is being undercut. A component of this work is a bathymetric survey, which is mapping showing the shape and elevations of a body of water. The bathymetric survey needs to be completed before the rains begin.

Mrs. Cook stated that while this is a component of the geotechnical engineering, the survey will also provide information needed for the storm water plan related to Elizabeth Creek and its stormwater outfall. As such, staff recommends that the survey be included as a modification to the storm water agreement with Keller Associates. The estimated total is \$15,000, and will be paid out of the storm water funding.

Councilor Zeyen-Hall moved and was seconded by **Councilor Plotts**, to Modify Stormwater Agreement with Keller Associates to Include Bathymetric Survey Work for Elizabeth Creek in the Amount of \$15,000. The motion passed unanimously, (5:0).

STAFF/COMMISSION REPORTS

City Recorder Report:

List of On-Going Old Business Items: The list of on-going old business items was provided for review.

Notice of Class Action Lawsuit – Pacific Power: Mrs. Cook said that the City received notification of a class action lawsuit against Pacific Power related to the 2020 Wildfires. City Attorney Jim McGehee said there is a question of eligibility for a municipality joining the lawsuit. Counsel for the lawsuit has been contacted to request more information. Council will have to decide whether to opt out of the lawsuit if municipalities are eligible.

City Attorney Report: None.

BUSINESS FROM MAYOR & CITY COUNCILORS

Mayor Kirsch said that he contacted Daineal Malone to find out the status on fixing the lights on SW Broadway St. and the Historic Railroad Bridge. Mrs. Malone said that contractors are aware of the lighting issue and Linn County is withholding payment until the lights are up and running.

Mayor Kirsch stated that Marion County Commissioners will be holding a meeting on Thursday, October 13, at Stewart's Hall beginning at 7:30AM.

Councilor Plotts thanked those responsible for the beautiful hanging baskets on the light poles. Councilor Trout said that the Odd Fellows supplied the baskets of flowers and Sandy Lyness Real Estate made sure that they were hung.

Councilor Zeyen-Hall thanked the Canyon Catalysts for all of the work that they have been doing.

Councilor Plotts said that the group working to purchase and place Christmas lights/decor along SW Broadway and the Historic Railroad Bridge have run into a snag as no electricity is available at this time. Councilor Trout suggested that Pacific Power may be able to assist with getting the lights running again.

Councilor Trout asked about the no parking for SE Fairview St. and NW Alder St. Mrs. Cook said this was being handled concurrently with the 1st Ave. parking and is on hold.

Councilor Winn said that he has found an electrician willing to look at the generator at the water plant as well as someone who may be interested in cleaning the Reid House property. Mrs. Cook said state certifications, licensing, bonding and insurance are necessary for most work with the City.

EXECUTIVE SESSION: None scheduled.

INFORMATIONAL ITEMS: None

ADJOURNMENT

The meeting was adjourned at 7:45 PM.

Prepared by:

Approved by:

Stacie Cook, MMC
City Recorder

Tim Kirsch
Mayor

City of Mill City
P.O. Box 256
Mill City, Oregon 97360
Phone: 503-897-2302 Fax: 503-897-3499

Memorandum

Date: October 20, 2022
To: Mayor Kirsch and Council
From: Stacie Cook, MMC, City Recorder
Subject: **Business for October 25, 2022 Council Meeting**

a. Ordinance No. 4XX(11) – Dangerous & Derelict Building Code

Enclosed is Ordinance No. 4XX(11) – Dangerous & Derelict Building Code. The language in the code has not changed except for removal of all references to the Dangerous & Derelict Building Committee. This allows for the review process to go more quickly when a potential violation has been turned in. Should questions arise regarding whether a property/structure is in violation, staff would confer with the City Attorney and/or City Council before proceeding with a letter of violation or finding of no violation.

**Requested Action: Motion to Read Ordinance No. 4XX(11)
for First Reading by Title Only.**

b. SE 2nd Avenue Parking

Councilor Katlong asked that this item be placed on the agenda for discussion. Parking is allowed on both sides of SE 2nd Avenue, with “No Parking Beyond This Point” signs at the north end. The travel lanes are quite narrow when traversing through vehicles on both sides.

Having said this, if we are going to look at parking issues along SE 2nd Avenue, there are a number of other streets that should also be considered. Some of these streets we began going through the process to change allowed parking a number of years ago and it dropped off of the working list. It may be advisable to have staff do a street inventory with photos of parking concerns.

Additionally, Councilor Katlong has concerns with the state of signage on SE 2nd Avenue. Signs are faded and/or dirty. This is also something that an inventory could be needed for.

Requested Action: Discussion.

c. Measure 114

Enclosed is a letter from Baker City Mayor and Council regarding Measure 114, which is on the ballot for the November 8th General Election. Mayor Kirsch is supportive of the City of Mill

City drafting a similar letter for release concerning violation of our Second Amendment rights. After a discussion with him it was decided that the issue should be placed on the agenda for Council to discuss whether or not to do so.

Requested Action: Discussion.

d. Oregon Mayor's Association Partnership to Solve Statewide Homelessness

Enclosed is a memo from the Oregon Mayor's Association (OMA) requesting partnership to solve statewide homelessness. According to the memo, the partnership would be between the State of Oregon and each of its 241 cities. A direct allocation, based on population, would be given to each city to use for immediate shelter, services and safety for homeless Oregonians.

OMA plans to propose, during the 2023 legislative session, two budget proposals: a package with provides direct allocation to cities and; a package that provides capital improvement funding for cities. The proposal states that funds must be used for "homelessness response and prevention services", which include:

- Abatement/clean-up
- Environmental mitigation
- Affordable housing
- Capital construction/improvement costs for homelessness or affordable housing measures
- Community resource officers
- Education and outreach
- Food bank assistance
- Shelter/transitional housing
- Hygiene stations
- Operation costs
- Outreach workers
- Prevention

OMA is requesting support from each Oregon city for this proposal. A response is requested no later than November 4th.

Requested Action: Discussion.

e. Miscellaneous City Recorder Items

- i. *Vacation; November 10-18, 2022:* I will be out of the office for vacation November 10-18, 2022.

Requested Action: None. Information Only.

- ii. *Mill City Falls Park/Parking Lot Planting:* The volunteer efforts to assist with completing the landscaping at Mill City Falls Park and the adjacent parking lot are going well. There are a number of plants, and most of the trees, in the ground. However, the season is quickly

coming to an end for planting. In an attempt to ensure that we get all of the plants in ground before the freezes come, we have contracted with Hart PM to bring in a five-man crew at a daily rate of \$3577.80. A work day has been set for Monday, October 24th after which a determination will be made as to whether an additional day will be necessary.

Requested Action: None. Information Only.

- iii. *Railroad Bridge Historic Sign Fence Panel:* The fencing panels that were installed on the Historic Railroad Bridge end at the interpretive sign that is between the bridge and the overlook. The intention was to use the sign as the 'connector' between these two areas. Unfortunately, the area below the sign leaves a wide open space where someone can accidentally fall down the hillside. In an effort to fix this danger, we ordered a panel to go below the sign.

Smith & Steel, the company making the fence panels for the Mill City Falls Park retaining wall, will be fabricating the panel for the sign. We have authorized the work to be completed, however, 50% (\$900) of the cost needs to be paid at time of order. A check is in the payables for this work.

I have been advised that it will likely be six weeks for completion.

Requested Action: None. Information Only.

- iv. *PFAS Multidistrict Litigation:* The City received a letter from OAWU advising that they have teamed with Nation Rural Water Association regarding a PFAS cost recovery program. PFAS are a widely used chemicals, which are long-lasting with components that break down very slowly over time.

OAWU and the Nation Rural Water Association have retained a law firm to file a cost recovery action to provide water and wastewater systems the opportunity to recover current or future expenses for testing, treatment and remediation of PFAS contamination.

The City has the option to join the cost recovery program litigation, at no cost to the City. A city must be registered prior to any settlement or judgement in order to benefit. No timeframe has been provided for potential settlement but cities are encouraged to sign up ASAP.

I have sent this information to City Attorney Jim McGehee for his review and will provide any information/recommendation he provides at the meeting.

Requested Action: Discussion.

- v. *Other*

ORDINANCE NO. 4XX(11)

AN ORDINANCE AMENDING TITLE 15 – BUILDINGS AND CONSTRUCTION, OF THE MILL CITY MUNICIPAL CODE AND REPEALING ORDINANCES 70 AND 322

WHEREAS, the Planning Commission recommends section 15.08 be amended and section 15.10 be added in Title 15 of the Mill City Zoning Code; and

WHEREAS, the city finds that it is in the public interest to update the city's dangerous building code and adopt a new chapter to the Mill City Municipal Code to address derelict buildings and structures; and

WHEREAS, the city council finds that it is in the public interest and necessary for the preservation of the public health, safety and welfare to update the city's dangerous building code; and

WHEREAS, the city contracts with Linn County to provide building inspection services in the city and the city council finds it is in the best interests of the city to adopt revisions to the Mill City Municipal Code which provide clear standards and procedures for the identification, repair and abatement of dangerous buildings and derelict buildings inside the city limits;

NOW, THEREFORE, the City Council of the City of Mill City hereby ordains as follows:

SECTION 1. Title 15 Section 15.08 of the Mill City Municipal Code is hereby amended to read as follows:

Chapter 15.08 - Dangerous Buildings and Structures

15.08.010	Purpose.
15.08.015	Scope.
15.08.020	Definitions.
15.08.025	Alternations, Additions & Repairs.
15.08.030	Administration.
15.08.035	Inspections.
15.08.040	Right of Entry.
15.08.045	Dangerous Buildings declared to be Public Nuisances; Abatement.
15.08.050	Violations.
15.08.055	Inspections of Work.
15.08.060	Commencement of Proceedings.
15.08.065	Notice and Order.
15.08.070	Service of Notice and Order.
15.08.075	Method of Service.
15.08.080	Proof of Service.
15.08.085	Repair, Vacation and Demolition.
15.08.090	Notice to Vacate - Posting.
15.08.095	Compliance with Notice to Vacate.
15.08.100	Form of Appeal.
15.08.105	Scheduling Appeal for Hearing.
15.08.110	Effect of Failure to Appeal.

15.08.115	Scope of Appeal Hearing; Stay of Order.
15.08.120	Form of Notice of Hearing to Appellant.
15.08.125	Record.
15.08.130	Conduct of Hearings
15.08.135	Rights of Parties.
15.08.140	Official Notice.
15.08.145	Inspection of the premises.
15.08.150	Form of decision; Judicial review.
15.08.155	Enforcement of Orders.
15.08.160	Failure to Commence Work.
15.08.165	Interference with Repair or Demolition Work Prohibited.

15.08.010 Purpose.

A. This Chapter is to provide a method (cumulative with and in addition to any other remedies available to the City by law) whereby buildings or structures which from any cause endanger the life, limb, health, property, safety or welfare of the general public or the building's occupants such that they should be required to be repaired, vacated or demolished.

B. This Chapter does not create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms hereof.

15.08.015 Scope.

This Chapter shall apply to all "Dangerous Buildings and Structures" as herein defined as they are now in existence or which may hereafter become Dangerous Buildings or Dangerous Structures in the City.

15.08.020 Definitions.

For the purpose of this Chapter, certain terms, phrases, words and their derivatives shall be construed as specified in either this chapter or as specified in the Building Code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster's 3rd New International Dictionary of the English Language (Unabridged, copyrighted 1986) shall be construed as providing ordinary accepted meanings. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

A. Building Official is the Linn County Building Official or designee. The Building Official is responsible to enforce state building codes and this chapter inside the city limits of the City of Mill City, in both Linn and Marion counties.

B. Building Code has the meaning given by the terms of ORS 455.010 to "state building code" and includes all specialty codes as defined in ORS 455.010.

C. City means the City of Mill City, Oregon.

D. City Recorder means the City Recorder for the City of Mill City, Oregon or designee.

E. Dangerous Building or Dangerous Structure is any building or structure having one or more of the conditions or defects hereinafter described provided that such condition(s) or defect(s) exist the extent that the Building Official can reasonably believe the life, health, property or safety of the public or the building's or structure's occupants are endangered:

1. Whenever any door, aisle, passageway, stairway or other means of exit is not of

sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

2. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.

3. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one half times the working stress or stresses allowed in the current applicable structural specialty codes as defined in ORS Chapter 455 for new buildings of similar structure, purpose or location.

4. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.

5. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

6. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.

7. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

8. Whenever the building or structure, or any portion thereof, because of:
- i. dilapidation, deterioration or decay;
 - ii. faulty construction;
 - iii. the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
 - iv. the deterioration, decay or inadequacy of its foundation; or
 - v. any other cause, is likely to partially or completely collapse.

9. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

10. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.

11. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

12. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become:

- i. an attractive nuisance to children;
- ii. a harbor for vagrants and/or criminals; or
- iii. a place so as to enable persons to resort thereto for the purpose of committing unlawful acts.

13. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, (as specified in the appropriately adopted Building Code) or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.

14. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the (i) strength, (ii) fire-resisting qualities or characteristics, or (iii) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

15. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the County Public Health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

16. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Marshal to be a fire hazard.

17. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

18. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

15.08.025 Alternations, Additions & Repairs.

All buildings or structures required to be repaired under the provisions of this Chapter shall be subject to the provisions of Chapter 34 of the Oregon Structural Specialty Codes as they currently exist or may hereafter be amended and adopted by the State.

15.08.030 Administration.

The Building Official is hereby authorized to enforce the provisions of this Chapter. The Building Official shall have the power to render interpretations of this Chapter and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this Chapter.

15.08.035 Inspections.

The Building Official and others such as the Fire Marshal, Linn County Health Department officials and Marion County Health Department officials are authorized to make such inspections and take such other actions as may be required to enforce the provisions of this Chapter, including (but not limited to) the issuance of stop work or similar abatement orders.

15.08.040 Right of Entry.

A. When necessary to make an inspection to enforce the requirements imposed by the terms of this Chapter (or when the Building Official has reasonable cause to believe there exists in a building or upon a premises a condition contrary to or in violation of this Chapter making the building or premises unsafe, dangerous or hazardous) the Building Official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this Chapter, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested.

B. If such building or premises be unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other person(s) having charge or control of the building or premises and request entry. If entry is refused, the Building Official shall have recourse to the remedies provided by law to secure entry.

15.08.045 Dangerous Buildings declared to be Public Nuisances; Abatement.

All buildings or portions thereof determined after inspection by the Building Official to be dangerous as defined in this Chapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in this Chapter.

15.08.050 Violations.

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this Chapter.

15.08.055 Inspections of Work.

All buildings or structures within the scope of this Chapter and all construction or work for which a permit is required shall be subject to inspection by the Building Official consistent with and in the manner provided by this Chapter and the currently adopted Building Code, including the Oregon Structural Specialty Codes, and other relevant provisions of municipal, county or state law.

15.08.060 Commencement of Proceedings.

When the Building Official has inspected or caused to be inspected any building and has found and determined that such building is a Dangerous Building, the Building Official or City Recorder has the authority to commence proceedings to effect the repair, vacation or demolition thereof.

15.08.065 Notice and Order.

The Building Official or the City Recorder shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

A. The street address and a description sufficient for identification of the premises upon which the building is located.

B. A statement that the Building Official has found the building dangerous with a brief factual description of the conditions found to render the building dangerous.

C. A statement of the action(s) required to be taken by the Building Official:

1. If the building must be repaired, the notice and order shall require all required permits be secured therefore and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the Building Official shall determine reasonable under all of the circumstances.

2. If the building must be vacated, the order shall require that the building or structure be vacated within a time certain from the date of the order as determined by the Building Official to be reasonable.

3. If the building or structure is to be demolished, the order shall require that the building be vacated within such time as the Building Official determines reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefore within 60 days of the date of the order; and that the demolition be completed within such time as the Building Official determines reasonable thereafter.

D. Statement advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the Building Official:

1. will order the building vacated and posted to prevent further occupancy until the work is completed; and

2. may proceed to cause the work to be done and charge the costs thereof against the property or its owner.

E. Statements advising:

1. that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the Building Official or City Recorder to the City's hearings officer provided the appeal is made in writing as provided in this Chapter and filed with the City Recorder within 14 days from the date of service of such notice and order; and

2. that failure to appeal will constitute a waiver of all right to a hearing and determination of the matter.

15.08.070 Service of Notice and Order.

The notice and order (and any amended or supplemental notice and order) shall be served upon the record owner and posted on the property with a copy thereof being served on each of the following (if known to the City or disclosed from official public records):

A. the holder of any mortgage or deed of trust or other lien or encumbrance of record;

B. the owner or holder of any lease of record; and

C. the holder of any other estate or legal interest of record in or to the building or the land on which it is located.

The failure to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.

15.08.075 Method of Service.

Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, to each such person at their address as it appears in the Linn County or Marion County tax records or as otherwise known to the City. If no address of such person appears or is known to the City, then a copy of the notice and order shall be mailed (addressed to such person) at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

15.08.080 Proof of Service.

Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and order retained by the City.

15.08.085 Repair, Vacation and Demolition.

A. Any building or structure declared a dangerous building or structure under this Chapter shall be made to comply with one of the following:

1. The building or structure shall be repaired in accordance with the current Building Code or other specialty codes applicable to the type of substandard conditions requiring repair; or

2. The building or structure shall be demolished consistent with subsection D below.

B. If the building or structure does not constitute an immediate danger to the life, limb, property or safety of the public it may be vacated, secured and maintained against entry.

C. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or the building's occupants, it shall be ordered vacated, secured and maintained against entry.

D. If a building or structure is found to be or becomes dangerous and if (in the opinion of the Building Official) the building or structure is not, under current circumstances likely to be repaired so as to be habitable within 120 days, it may be ordered demolished by the Building Official with the cost thereof borne by the owners. In the event the Building Official determines that a building is to be demolished, the Building Official shall make a written order which includes the circumstances supporting demolition. The order shall be served on all persons entitled to notice under 15.08.070 and is subject to a 21-day appeal consistent with the provisions of 15.08.100.

15.08.090 Notice to Vacate - Posting.

Every notice to vacate shall, in addition to being served shall be posted at or upon each exit of the building and shall be in substantially the following form:

**DONOTENTER
UNSAFETOOCUPY**

It is unlawful to occupy this building or to remove or deface this notice.

Building Official

15.08.095 Compliance with Notice to Vacate.

A. Whenever such notice is posted, the Building Official shall include a notification thereof in the notice and order issued under 15.08.065 reciting the emergency and specifying the conditions which necessitate the posting.

B. No person shall remain in or enter any building which has been so posted except that entry may be made to repair, demolish or remove such building under permit.

C. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and all lawful requirements been met.

15.08.100 Form of Appeal.

A. Any person entitled to service under 15.08.070 may appeal from any notice and order or any action of the Building Official under this Chapter by filing with the City Recorder a written appeal containing:

1. A heading in the words: "Before the City of Mill City, Oregon".
2. A listing of the names of all appellants participating in the appeal along with a brief statement setting forth the legal interest of each appellant in the building or the land involved in the notice and order.
3. A brief statement concerning the basis for the appeal together with any material fact(s) claimed to support those contentions and why the protested order or action should be reversed, modified or otherwise set aside.
4. The signatures of all parties named as appellants and their official mailing addresses.
5. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

B. The appeal shall be filed within 14 days of the date of service of the Building Official's order or action; however, if the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or adjacent property and is ordered vacated and is posted in accordance with 15.08.090, such appeal shall be filed not later than 10 days from the date of the service of the notice and order of the Building Official.

15.08.105 Scheduling Appeal for Hearing.

As soon as practicable after receiving the written appeal, the City shall fix a date, time and place for the hearing of the appeal. Such date shall not be less than ten (10) nor more than sixty (60) days from the date the appeal was filed with the City Recorder. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing to each

appellant by the City either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.

15.08.110 Effect of Failure to Appeal.

Failure of any person to file an appeal in accordance with the provisions of Section 15.08.100 shall constitute a waiver of the right to a hearing and adjudication of the notice and order or any portion thereof.

15.08.115 Scope of Appeal Hearing; Stay of Order.

A. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

B. Except for vacation orders made pursuant to Section 15.08.085, enforcement of any notice and order of the Building Official issued under this Chapter shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

15.08.120 Form of Notice of Hearing to Appellant.

The notice to the appellant(s) shall be substantially in the following form:

"You are hereby notified that a hearing will be held before the Hearings Officer for the City of Mill City at 444 1st Avenue, Mill City, Oregon on the _____ day of _____, 20____ at the hour given on the notice and order served upon you for alleged violation(s) of Chapter 15.08 (Dangerous Buildings) of the Mill City Municipal Code. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present relevant evidence and be given full opportunity to examine all witnesses."

15.08.125 Record.

A record of the entire proceedings shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the court.

15.08.130 Conduct of Hearings.

Hearings need not be conducted according to the technical rules relating to evidence and witnesses. Oral evidence shall be taken on oath or affirmation. Hearsay evidence may be used for the purpose of supplementing or explaining direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in Oregon. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in Oregon. Irrelevant and unduly repetitious evidence shall be excluded.

15.08.135 Rights of Parties.

The City and the appellant(s) shall be able:

- A. To call and examine witnesses on matters relevant to the issues of the hearing;
- B. To introduce documentary and physical evidence;

- C. To cross-examine opposing witnesses;
- D. To rebut evidence; and
- E. To be represented by anyone lawfully permitted to do so.

15.08.140 Official Notice.

In reaching a decision, official notice may be taken (either before or after submission of the case for decision) of any fact which may be judicially noticeable by Oregon courts. Parties present at the hearing shall be informed of the matters to be noticed which is to be noted in the record. Parties present at the hearing shall be given a reasonable opportunity to refute the noticed matters by evidence or by written or oral presentation of authority.

15.08.145 Inspection of the Premises.

The Hearings Officer may inspect any building or structure involved in an appeal during the course of the hearing provided that: notice of such inspection shall be given the parties before the inspection is made; the parties are given an opportunity to be present during the inspection; and, the Hearings Officer shall state for the record after said inspection the material facts observed and the conclusions drawn therefrom.

15.08.150. Form of Decision; Judicial Review.

With appeals heard by the Hearings Officer, the Hearings Officer shall within a reasonable time (not to exceed 90 days from the date the hearing is closed) prepare a written decision which shall contain findings of fact, a determination of the issues presented and the requirements, if any, to be complied with. The effective date of the decision shall be as stated therein. A copy of the decision shall be delivered to the City and appellant by regular mail, postage prepaid. Judicial review of the Hearings Officer's decision shall be by way of writ of review as provided for in ORS 34.010 to ORS 34.100.

15.08.155. Enforcement of Orders.

After any order of the Building Official or Hearings Officer made pursuant to this Chapter has become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. If, the person to whom such order is directed fails neglects or refuses to comply with said order, the Building Official may take any and all actions deemed by him, in consultation with the City Recorder and City Attorney to be appropriate including the filing of supplementary enforcement or compliance action(s) in a court of competent jurisdiction.

15.08.160 Failure to Commence Work.

Whenever the required repair or demolition is not commenced within 30 days after any final notice and order issued under this Chapter becomes effective:

- A. The Building Official shall cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading:

**DANGEROUS BUILDING
DO NOT OCCUPY**

It is unlawful to occupy this building or to remove or deface this notice.

**Building Official
City of Mill City, Oregon**

B. No person shall occupy any building which has been posted as specified in this section. No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the Building Official have been completed and a certificate of occupancy issued pursuant to the provisions of the Building Code.

C. The Building Official may in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or, if the notice and order required demolition, to cause the building to be sold and demolished or demolished and the materials, rubble and debris therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner provide for the collective of assessment or nuisance liens under state statute or city code. Any surplus realized from the sale of any such building or from the demolition thereof, over and above the cost of demolition, administrative costs and of cleaning the lot shall be paid over to the person or persons lawfully entitled thereto.

15.08.165 Interference with Repair or Demolition Work Prohibited.

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of this jurisdiction or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this Chapter; or with any person to whom such building has been lawfully sold pursuant to the provisions of this Chapter, whenever such officer, employee, contractor or authorized representative of the City, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building, pursuant to the provisions of this Chapter, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this Chapter.

SECTION 2. Title 15 Section 15.10 of the Mill City Municipal Code is hereby created and to read as follows:

Chapter 15.10 - Derelict Buildings and Structures

- 15.10.010 Purpose.
- 15.10.020 Administration.
- 15.10.030 Exceptions.
- 15.10.040 Building Maintenance Standards.
- 15.10.040 Dangerous Buildings declared to be Public Nuisances; Abatement.
- 15.10.050 Vacant Buildings.
- 15.10.060 Violation Options.
- 15.10.070 Violation Notice.
- 15.10.080 Procedure for Enforcement.
- 15.10.090 Abatement by the Owner.
- 15.10.100 Voluntary Correction Agreement.
- 15.10.110 Citation.
- 15.10.120 Abatement.
- 15.10.130 Assessment of Abatement Costs.

15.10.010 Purpose

The purpose of this chapter is to establish an enforcement program to address the problem of derelict, abandoned, and vacant buildings or structures within the City in order to protect the public health, safety, and welfare of the community through the required maintenance of unkempt, unsightly, unsafe, unsanitary, and otherwise improperly maintained structures.

The program is intended to protect the City from blight, deterioration, and decay as a result of properties in a condition or state that potentially would have an adverse effect on the value, utility, and habitability of property within the City. In addition to the obvious hazards which these conditions pose to the public health, safety, and welfare, they specifically cause damage to adjoining and nearby properties. A property which is merely unkempt or vacant for long periods may reduce the value of adjoining and nearby property, and the habitability and economic well-being of the City may be materially and adversely affected.

The goals of this chapter are as follows:

- A. To supplement the City Nuisance Ordinance and further define as public nuisances those conditions which constitute visual blight and which could result in conditions which are harmful or deleterious to the public health, safety and welfare; and
- B. To develop regulations that will promote the sound maintenance of buildings and structures, enhance the livability, community appearance, and the social, economic, and environmental conditions of the community; and
- C. To establish guidelines for the correction of property maintenance violations and nuisances that afford due process and procedural guarantees to affected property owners; and
- D. To support responsible environmental practices with the repair and reuse of existing structures in lieu of demolition of buildings that are able to be repaired.

15.10.020 Administration.

A. Determination of whether a building or property is in violation of this chapter shall be made by the City Recorder, or the City Recorder's designee. The City Recorder should consult with the Building Official, Fire Marshal, County Public Health Officer, or any other agency as necessary, before making the determination to bring the matter before the City's Derelict Building Committee.

1. For a violation to have occurred under this chapter, one or more of the building maintenance standards specified in Section 15.10.040 (A-H) shall be out of compliance.

2. ~~Prior to proceeding with a notice of violation, the City Recorder's determination shall be reviewed by the City's Derelict Building Committee. The Derelict Building Committee shall be comprised of one city councilor [Building Commissioner], one planning commission member and one citizen, all appointed by the Mayor. If a majority of the committee agrees with the City Recorder's determination, t~~The City Recorder will issue the notice of violation to the owner or person in charge of the property as set forth in Section 15.10.070. For the purposes of this chapter, the term "person in charge of property" has the meaning defined in SMC 8.04.010(B).

B. Buildings or structures determined a nuisance shall be subject to the necessary permits and requirements in accordance with the applicable Oregon Structural Specialty Codes. All construction or work for which a permit is required shall be subject to inspection by the Building Official.

C. The City may take appropriate steps to gain entry into or upon the property to investigate and/or cause the removal of a nuisance.

D. The City Recorder will provide a report to the City Council identifying the number of complaints received, the number of derelict building violations found and notices of violation issued, and the actions taken to resolve the violations.

15.10.030 Exceptions.

This chapter shall not apply to a building or structure that is actively undergoing construction or repair as indicated by a valid building permit and appearance that the person in charge is progressing diligently to complete the repair or construction. This exception does not apply to requirements relevant to public safety or health concerns.

15.10.040 Building Maintenance Standards.

No person in charge of a property shall maintain or permit to be maintained any property which does not comply with the requirements of this chapter and is deemed to be a nuisance and detrimental to the City. All property shall be maintained to the Building Code requirements in effect at the time of construction, alteration, or repair, and shall meet the requirements below. The building maintenance standards are listed as subsections A. through H of this Section.

A. Accessory Structures.

1. All accessory structures, including sheds, awnings, and other similar features, shall be maintained structurally safe and sound, and in good repair.

2. Accessory structures shall comply with maintenance standards in Section 15.10.040 B. through H.

B. Roofs.

1. The roof shall be structurally sound, tight, and have no defects which might admit rain.

2. Roof drainage shall be adequate to prevent rainwater from causing dampness in the walls or interior portion of the building.

3. Roof drains, gutters, and downspouts shall be maintained in good repair and free from obstructions and shall channel rainwater into approved receivers.

C. Chimneys and Towers.

1. All chimneys, cooling towers, smoke stacks, towers, and similar appurtenances / attachments shall be maintained so as to be structurally safe and sound, and in good repair. They shall remain adequately supported and free from obstructions and shall be maintained in a condition which ensures there will be no leakage or back-up of noxious gases. They shall be reasonably plumb.

2. Loose bricks or blocks shall be re-bonded. Loose or missing mortar shall be replaced. Unused openings into the interior of the structure must be permanently sealed using approved materials.

D. Foundations and Structural Members.

1. Foundation elements shall adequately support the building and shall be free of rot, crumbling elements, or similar deterioration.

2. The supporting structural members in every structure shall be maintained so as to be structurally sound, showing no evidence of deterioration or decay which would substantially impair their ability to carry imposed loads.

E. Exterior Walls and Exposed Surfaces.

1. Exterior wall and weather-exposed exterior surface or attachment shall be free of holes, breaks, loose or rotting boards or timbers and any other conditions which might admit rain or dampness to the interior portions of the walls or the occupied spaces of the building.

2. Exterior wood surfaces shall be made substantially impervious to the adverse effects of weather by periodic application of an approved protective coating of weather-resistant preservative, paint, or other approved coating, and be maintained in good condition.

3. Exterior metal surfaces shall be protected from rust and corrosion of an extent that would substantially impair its ability to carry imposed loads.

4. Exterior brick, stone, masonry, or other veneer shall be maintained so as to be structurally sound and be adequately supported and tied back to its supporting structure.

5. Cornices, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

6. Overhang extensions, including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition.

F. Windows.

1. Each window shall be substantially weather-tight, shall be kept in sound condition and repair for its intended use.

2. Window sash shall be fully supplied with glass window panes, light transmitting ceramic and/or light-transmitting plastic panels as permitted in the Oregon Structural Specialty Code without open cracks and holes.

3. Window sash shall be in good condition and fit weather-tight within its frames.

4. Window frame shall be constructed and maintained in relation to the adjacent wall construction so as to exclude rain as completely as possible and to substantially exclude wind from entering the structure.

G. Doors.

1. Exterior doors, including screen doors, cellar doors, and garage doors, door assemblies, and hardware shall be maintained in good condition, be weather-tight, and substantially exclude wind and rain from entering the structure.

H. Insect and Rodent Harborage.

1. Every dwelling shall be kept free from insect and rodent infestation, and where insects and rodents are found, they shall be promptly terminated. After extermination, proper precautions shall be taken to prevent re-infestation.

15.10.050 Vacant Buildings.

In addition to the maintenance standards in Section 15.10.040, the person in charge of a vacant property and/or building shall comply with the following maintenance and security requirements:

A. The building and/or property shall be secure so that it is not accessible to unauthorized persons, including but not limited to the closure and locking of windows and doors (walk through, sliding, and garage) and any other opening of such size that may allow a child to access the interior of a structure; chaining or padlocking gates, and repairing fencing.

B. If the person in charge of the property or building does not reside or have a business office within 50 miles of the City limits, the person in charge shall contract with or otherwise engage a person to provide property management to perform inspections to verify that all requirements of this ordinance, enforcement notice, and any other applicable laws are being met.

C. The property shall be posted with name and 24-hour contact phone number of the owner, person in charge, or a local property management representative. The posting shall be no larger than 18" X 24" and shall contain the words "THIS PROPERTY MANAGED BY . . ." The posting shall be secured to the exterior of the building or placed in a location on the property so it is visible from the street.

15.10.060 Violation Options.

When an alleged complaint is reported to the City, the City Recorder or designee shall prepare a statement of the facts and shall review the facts and circumstances surrounding the alleged complaint. The City Recorder shall not proceed further with the matter if the City Recorder determines that there is not sufficient evidence to support the allegation., or if the Derelict Building Committee rules that the nuisance does not exist and is not a violation. If a nuisance is determined to exist by the Derelict Building Committee, the City Recorder may enforce this Chapter by any of the following methods:

- A. Abatement by the Owner;
- B. Voluntary Correction Agreement;
- C. Citation;
- D. Abatement by the City;
- E. Citation and Abatement;
- F. Other enforcement remedies available at law or at equity.

15.10.070 Violation Notice.

A. Upon determination by the City Recorder, ~~and after consultation with the Derelict Building Committee,~~ that a nuisance as defined in Chapters 15.10.040 or 15.10.050 exists, the City Recorder shall forthwith cause a notice to be posted on the premises where the nuisance exists, directing the owner or person in charge of the property to abate such nuisance.

B. At the time of posting, the City Recorder shall cause a copy of such notice to be forwarded by registered or certified mail, postage prepaid, to the owner or person in charge of the property at the last known address of such owner or other person.

C. The notice of violation shall contain:

1. A description of the real property, by street address or otherwise, on which such nuisance exists;

2. A statement explaining the different options for abatement by the owner, including the voluntary correction agreement.

3. A direction to abate the nuisance by the date listed on the notice;

4. A description of the nuisance;

5. A statement that unless such nuisance is removed, the city may abate the nuisance and the cost of abatement shall be a lien against the property;

6. A statement that the owner or other person in charge of the property may appeal to the City by filing an appeal with the City Recorder within twelve (12) business days of the mailing date of the notice of violation. The City's hearings officer, shall hear and determine the objections of the appeal.

D. Upon completion of the posting and mailing, the City Recorder or designee posting and mailing the notice shall execute and file a certificate stating the date and place of such mailing and posting.

E. An error in the name or address of the owner or person in charge of the property or the use of a name other than that of the owner or other person shall not make the notice void and in such a case the posted notice shall be sufficient.

15.10.080 Procedure for Enforcement.

The following are the general steps that should be conducted in the enforcement of derelict buildings. These procedures are intended as a guideline and strict adherence to this process is not required. Time lines may be shortened or lengthened depending on individual circumstances. These procedures do not prevent the use of other methods of enforcement that may be available to the City.

- A. Possible nuisance is identified by a city employee or through a complaint. Complaints may be made anonymously.
- B. The City Recorder or designee verifies that the nuisance exists and is a violation. The City Recorder or designee identifies property owner, person in charge, and/or person responsible for the violation.
- ~~C. The City's Derelict Building Committee evaluates the City Recorder's determination and then either concurs or does not concur that the nuisance exists and is a violation. If a majority of the committee decides that a nuisance does not exist, then the City Recorder will note that decision for the file and take no further action on the matter.~~
- D. ~~If a majority of the Derelict Building Committee determines a nuisance does exist,~~ The City Recorder shall cause a notice to be posted on the premises where the nuisance exists and send a notice of violation by regular mail to the property owner or others advising of the nuisance, citing the specific violation and the options for completing the work. Staff will provide the options for rectifying the nuisance, repair, rehabilitation or abatement.
- E. If the property owner enters into a voluntary correction agreement with the City, then the steps in Section 15.10.100 for Voluntary Correction Agreement shall be followed.
- F. If the property owner does not enter into a voluntary correction agreement, then, after two weeks, the City Recorder or designee verifies if the nuisance still exists. If a nuisance does not exist, the City Recorder will note that fact for the file and take no further action on the matter.
- G. If nuisance persists, a second notice of violation is sent by regular and certified mail with due date of additional two weeks, and advisement of possible fines.
- H. After two weeks, the City Recorder verifies if nuisance still exists. If nuisance does not exist, the City Recorder will note that fact for the file and take no further action on the matter.
- I. If nuisance still exists, the City may issue a complaint to the property owner to appear in Municipal Court as permitted under Section 15.10.110 or may request the Council abate the nuisance in accordance with Section 15.10.120 and Section 15.10.130 of this chapter.
- J. Each day the nuisance persists is a separate violation.
- K. If the nuisance still exists after fines imposed in accordance with Section 15.10.110 and the property owner's failure to comply with a Municipal Court order, the City may abate the nuisance in accordance with Section 15.10.120 and Section 15.10.130 of this chapter and place a lien on the property for all of its costs incurred to abate the nuisance, including but not limited to attorney fees, and/or continue with other methods of enforcement available to the City.

15.10.090 Appeal to Hearings Officer and Abatement by the Owner.

A. On the date listed on the notice to abate the nuisance as contained on the posting and mailing of the notice as provided in Section 15.10.070, the owner or person in charge of the property shall have removed the nuisance or show that no nuisance exists.

B. The owner or person in charge protesting that no nuisance exists shall file with the City Recorder an appeal which shall specify the basis for appeal. A notice of violation may be appealed to the City by filing an appeal with the City Recorder within twelve (12) business days of the mailing date of the notice of violation.

C. The appeal shall be referred to the City's hearings officer. The hearings officer will set a date and time to consider the appeal. At the time set for consideration of the appeal, the owner or other person may appear and be heard. The hearings officer will thereupon determine whether or not a nuisance in fact exists and upon such determination will issue a written Notice of Decision.

D. If the hearings officer determines that a nuisance does in fact exist, the owner or other person shall, by a date as specified by the hearings officer's determination, abate such nuisance.

E. The decision of the hearings officer is final.

15.10.100 Voluntary Correction Agreement.

A. The City Recorder is authorized to execute a voluntary correction agreement with the owner of a dwelling, building, structure or property for which the owner has been issued a Notice of Violation in accordance with 15.10.070.

B. A voluntary correction agreement is a contract between the City of Mill City and the property owner in which the property owner agrees to abate the nuisance as described in the Notice of Violation. The voluntary correction agreement be in a form approved by the City and shall include:

1. The name and address of the owner of the property and any other person bound under the agreement.

2. The street address, assessor's map and tax lot number or other legal description sufficient to identify the premises.

3. A copy of the Notice of Violation or a description of the nuisance and conditions to be abated.

4. The corrective action to be taken and a date by which the corrective action must be completed. If a building permit is required, the agreement will state a date when the property owner, or his authorized representative, will submit a building permit application and plans meeting Linn County Building Department requirements.

5. A stipulation by the property owner that the illegal condition(s) identified in the Notice of Violation, complaint or order to exist and that the corrections specified in the voluntary correction agreement are appropriate and that the property owner agrees to make the corrections by the date and time specified. [Set by City Recorder, in consultation w/ city attorney and/or building official]

6. A stipulation by the property owner that the City of Mill City may abate the illegal condition(s) and recover costs and administrative fees as an assessment to the owner and a lien on the property pursuant to the City's nuisance abatement procedures in MCMC Chapter 8.04, in the event of a material breach of the voluntary correction agreement.

7. A stipulation by the property owner that the property owner will reimburse the city for all or an agreed upon portion of the city's enforcement costs and a statement of the costs and administrative fees to be paid, by whom and by what date.

8. A statement by the property owner that the City, its employees, contractors, agents and assigns, are permitted to enter the property at any reasonable time until the illegal condition is abated.

9. A statement that upon notification from the property owner that the work is complete, the City will inspect the premises, determine if the illegal conditions or nuisance no longer exists and issue a written notice to the property owner that the work is complete or if the City finds the corrective action is not complete and an illegal condition still exists.

C. The City Recorder may, in his or her sole discretion, extend deadline(s) for correction if the property owner has been diligent and made substantial progress but has been unavoidably delayed.

D. The City Recorder may determine that a material breach of a voluntary correction agreement has occurred and may further determine what shall be done to abate the illegal conditions which were the subject of the voluntary compliance agreement. The City Recorder shall cause a notice of such determination of a material breach of a voluntary compliance agreement to be forwarded by registered or certified mail, postage prepaid, to the owner or person in charge of the property at the last known address of such owner or other person. A copy of the City Recorder's determination will be provided to the Derelict Building Committee. The City Recorder's determination may be appealed to the City.

E. A written appeal of the City Recorder's determination that a material breach has occurred may be filed at City Hall within 21 days of the mailing date of the notice. The hearings officer, after consultation with the City Attorney, will set a date and time to consider the appeal. The property owner may appear at the appeal hearing and be heard by the hearings officer. The hearings officer will thereupon determine whether or not a material breach exists will issue a written Notice of Decision on the appeal. If the hearings officer determines that a material breach does in fact exist, the City may proceed with abatement of the nuisance under terms stipulated in the voluntary correction agreement. The decision of the hearings officer is final.

15.10.110 Penalties.

Any person violating any of the provisions herein for which a special penalty has not been expressly provided shall, upon conviction thereof, be punished by a fine not to exceed five hundred dollars (\$500.00) per violation. Each day that a violation exists after due notice has been served shall be deemed a separate offense.

15.10.120 Abatement.

A. If, within the time allowed, the nuisance has not been corrected by the owner or person in charge of the property, the council may cause the nuisance to be abated.

B. The City official charged with abatement of such nuisance shall have the right at reasonable times to enter into or upon property to investigate or cause the removal of a nuisance.

C. The City Recorder shall keep an accurate record of the expense incurred by the city in abating the nuisance and shall include therein a charge of twenty (20) percent of the expense for administrative overhead.

15.10.130 Assessment of Abatement Costs.

A. The City Recorder, by registered or certified mail, postage prepaid, shall forward to the owner or person in charge of the property a notice stating:

1. The total cost of abatement, including but not limited to the administrative overhead and outside consultant costs or legal fees;

2. That the cost as indicated will be assessed to and become a lien against the property unless paid within thirty (30) days from the date of notice;

3. That if the owner or person in charge of the property objects to the cost of the abatement as indicated, he/she may file a notice of objection with the City Recorder not more than twelve (12) business days from the date of notice.

B. The Council, in regular course of business, shall hear and determine the objections to the cost to be assessed.

C. The costs of abatement shall be paid in full within 30 days from the date of the Notice. In lieu of full payment within 30 days of the Notice, the City may enter into an installment payment agreement with the owner in charge of the property that provides for installment payments to the City for a period of up to five years for the full amount of the outstanding balance due to the City, plus accrued interest. The agreement will include a payment schedule. The interest rate shall be the rate set forth in Section 3.08.110 of this code or such other interest rate established by the City Council in the resolution adopted per subsection D. of this Section.

D. If the costs of the abatement are not paid within thirty (30) days from the date of the notice, an assessment of the costs as stated or as determined by the Council shall be made by resolution and shall thereupon be entered in the docket of city liens and, upon such entry being made, shall constitute a lien upon the property from which the nuisance was removed or abated.

E. The lien shall be enforced in the same manner as liens for local improvements are enforced, as set forth in Chapter 3.08 of this code. The lien shall bear interest at the rate set forth in Section 3.08.110 of this code or such other interest rate established by the City Council in the lien resolution adopted per subsection D. of this Section. Such interest shall accrue from the date of the entry of the lien in the lien docket.

F. An error in the name of the owner or person in charge of the property shall not void the assessment nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

SECTION 3. Ordinance 70, adopted March 14, 1962 and Ordinance 322, adopted May 25, 2004 are hereby repealed.

SECTION 4. Severability. The provisions of this ordinance are severable. If a section, sentence, clause, or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this ordinance.

This Ordinance read for the first time by title only on the _____ day of _____, 201622.

This Ordinance read for a second time by title only on the _____ day of _____, 201622.

This Ordinance passed on the _____ day of _____, 201622 by the City Council and executed by the Mayor this _____ day of _____, 201622.

Date: _____ By: _____
TIMOTHY L. KIRSCH, Mayor

Date: _____ Attest: _____
STACIE COOK, MMC, City Recorder

APPROVED AS TO FORM

Date: _____ By: _____
JAMES L. MCGEHEE, City Attorney

 Sales  Elevation Certificates  Highways  Tax Lots
 Address  LOMAs  Roads  County Boundary
 Permits  Railways  City Limits

Map created using the Linn County Oregon web mapping application

This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the

 Permits
  Railways
  City Limits



BAKER CITY OREGON

MAYOR
Kerry McQuisten
COUNCILORS
Shane Alderson
Johnny Waggoner Sr.
Joanna Dixon
Jason Spriet
Dean Guyer
Kenyon Damschen
CITY MANAGER
Jonathan Cannon

LETTER OPPOSING MEASURE 114

October 7th, 2022

Citizens of Baker City,

We, your Mayor and City Council, encourage you to vote NO on Measure 114.

This measure is a defacto gun sales ban in the state of Oregon. Earlier this year, we resolved as a body to protect your Second Amendment Rights, and we continue to do so. This measure tells us we have to get permission from the government to exercise our constitutional rights, which opposes the very structure our founding fathers built our Republic upon.

Measure 114 requires a permit and training just to apply for a background check. This step requires live-fire training, which you cannot do without a firearm, which you can't get until you finish the permit and training! If you're thinking about borrowing a firearm, SB554 has already severely limited that ability.

There is little to no funding in place for and nowhere to complete this training. There's no one other than generalized "law enforcement" assigned to provide the training or permit; it will take an estimated \$50 million in funding to set up this process, and up to \$200 million to provide facilities. Neither amount has been budgeted.

The fee to you for the permit can be unlimited. The information that can be required by the permit-issuer is open-ended. You can be asked for your personal contact information, photo, psychological evaluation, IQ test, fingerprints, daily schedule, political party, religious beliefs, favorite foods - anything the permit-issuer feels necessary! This information will be put into a database to be published publicly every year.

Even if you get your permit and training, there would be no time limit on background check processing. Your background check might be delayed ... indefinitely.

Magazines of over 10 rounds would be banned. Like your little old tube-fed .22 that holds 13 rounds, or your shotgun? You won't be able to buy a new one. And you will only be able to use the one you have on your own property or while in the process of hunting.

Inheritance of firearms would become nearly impossible. If your next of kin is found to not have the proper permit/background check in place, law-enforcement might destroy the firearms passed down in the will.

It takes no real effort to see that the effect of 114 will be gun stores closing across the state due to this sales ban, while taking away your ability to defend yourself.

We each took an oath of office swearing to uphold the Constitution. Measure 114 violates all of our 2A rights and must be defeated. Please join us in voting no.

Kerry McQuisten, Mayor



To convene, network, train, and empower Mayors

MEMORANDUM

To: Mayors and Chief Executive Officers of Region 4
From: The Oregon Mayors Association
Date: October 18, 2022
Re: Partnership Needed to Solve Statewide Homelessness Emergency

This past May, the Oregon Mayors Association (OMA) formed a Taskforce on Homelessness. Twenty-five mayors, representing cities of all sizes from around the state, studied Oregon's homelessness crisis. And while the crisis may seem insurmountable, given that the symptoms and solutions look different between urban and rural communities and vary based on a city's size, geography and available service providers, local government leaders have developed a solution to Oregon's crisis of the unhoused.

The OMA Homelessness Taskforce's plan to humanely and timely address the homelessness crisis in Oregon is a partnership between the State of Oregon and its 241 cities. This partnership will allow for the establishment and expansion of local, community-based responses that provide immediate shelter, needed services, and secure safety for unhoused Oregonians. During the 2023 Legislative session, the OMA will *propose* two separate, yet parallel, budget proposals: (1) a budget package which provides direct allocation to cities for homelessness response and prevention services; and (2) a budget package that provides capital improvement funding for cities.

Direct Allocation

A direct allocation of funding from the state to each incorporated city in Oregon for cities to use in their homelessness response and prevention services is being proposed by the OMA.

- It is proposed that each city will be allocated funds in an amount equal to \$40 per resident, in accordance with the latest official population estimates from Portland State University.
- The proposal requires that in no instance will an incorporated city receive less than \$50,000 in direct funding.
- OMA's proposal provides cities the ability to elect to use the funds for their own homelessness response and prevention services, or to redirect their funds to community partners who are required to use the funds for homelessness response and prevention services.

OMA's proposal states that funds must be used for homelessness response and prevention services, which may include:

- Abatement/clean-up
- Environmental mitigation
- Affordable housing
- Capital construction or improvement costs related to homelessness or affordable housing measures
- Community resource officers
- Education and outreach
- Food bank assistance
- Shelter and/or transitional housing
- Hygiene stations
- Operation costs
- Outreach workers
- Prevention

With a \$50,000 guarantee for all cities, and a \$40.00 per resident multiplier in place, based on the April 19, 2022, PSU population estimates, the total amount requested would equal \$123,575,800.00 annually.

For cities located in Region 4, a \$40 per resident allocation equates to an annual allocation of the dollar amounts denoted below:

- Adair Village - \$52,720
- Albany - \$2,287,960
- Brownsville - \$68,200
- Coburg - \$52,880
- Corvallis - \$2,304,040
- Cottage Grove - \$431,680
- Creswell - \$227,360
- Eugene - \$7,025,040
- Halsey - \$50,000
- Harrisburg - \$146,320
- Junction City - \$281,280
- Lebanon - \$764,880
- Lowell - \$50,000
- Mill City - \$80,480
- Millersburg - \$123,720
- Monroe - \$50,000
- Oakridge - \$129,520
- Philomath - \$227,280
- Scio - \$50,000
- Sodaville - \$50,000
- Springfield - \$2,494,080
- Sweet Home - \$395,720
- Tangent - \$50,000
- Veneta - \$210,840
- Waterloo - \$50,000
- Westfir - \$50,000

Capital Allocation

In addition to the direct allocations, the Taskforce's proposal requires a meaningful allocation from the State for coordinated capital construction investments for specific shelter and transitional housing projects, statewide. It is expected that a final dollar amount for needed capital construction investments will equal between \$125 to \$175 million. The OMA is seeking information from Oregon cities about any needs they may have for capital construction investments from the state in their local responses to addressing the homelessness crisis.

Request for Support

The OMA Homelessness Taskforce and the OMA Board of Directors seek the support of Oregon's 241 cities for the above-described proposal. In an effort to present the legislature

and Oregon's next governor with a truly coordinated and collaborative proposal, the OMA hopes to submit its legislative request with as many city partners as possible.

To explain the statewide nature of this crisis, the League of Oregon Cities (LOC), in partnership with the OMA, has secured the services of a communications specialist to work directly with cities interested in supporting the OMA proposal. The communications specialist will work directly with interested cities to develop a one-page document that outlines a city's unique experience with homelessness, and how the funding proposed by the OMA would help the city respond to, or even prevent, homelessness in their community. Work performed by the consultant in support of the OMA proposal will be paid for by the LOC.

Oregon's mayors are leading the on-the-ground response on homelessness, and the prevention thereof, but cities cannot do so alone and need joint leadership from state government to support cities and our county partners. The OMA Taskforce has called on Oregon's next governor and legislature to fund the services and housing needed to make an impact on Oregon's homelessness crisis; the support of Region 4 cities will go a long way to expressing the importance and impact of this proposal.

If your city is interested in supporting the proposal, please contact any of the LOC staff persons listed below as soon as possible, ideally cities wishing to provide support to the proposal should make contact no later than November 4th.

- Patty Mulvihill, LOC Interim Executive Director – pmulvihill@orcities.org
- Ariel Nelson, LOC Housing & Land Use Lobbyist – anelson@orcities.org
- Angela Speier, Projects & Affiliates Manager – aspeier@orcities.org



Subject: Oregon PFAS Cost Recovery Program

Oregon Association of Water Utilities has teamed with National Rural Water Association to make you aware of a PFAS Cost Recovery Program that we strongly encourage your utility to register into, at no cost, to protect your utility and rate payers from a PFAS contamination financial burden.

As background, when the 2016 health advisory was issued by U.S. EPA, the National Rural Water Association Board of Directors, which is comprised of a National Director from all 50 state affiliates including OAWU, voted to engage the Napoli Shkolnik law firm to file a cost recovery action that would allow all utilities to register and recover any current and projected future expenses for testing, treatment and remediation due to PFAS contamination upon any potential settlement or judgement in your favor. For clarification, this is not a class action lawsuit as there are multiple classes of plaintiffs, thus they are combined into what is called multidistrict litigation. The three points we want to stress to utilities are:

1. The action is cost recovery, not punitive.
2. The litigation is filed against the global manufacturers of the compounds and does not impact local companies who may have used them.
3. There is zero upfront cost to register the utility onto the cost rolls, however, a system must be registered prior to any settlement or judgement being reached in order to benefit. While there is no timeframe as to when a settlement may be finalized, those settlement talks are underway. The recently announced revised health advisory from EPA will further place pressure on a potential settlement being reached.

There is no threshold or cost to register onto the cost recovery rolls, we encourage all systems to register and protect their system and ratepayers from a potential increased financial burden. Systems should register regardless of testing or detection status. Registering onto the cost recovery rolls is like an insurance policy without a premium and if asked by your customers, a strong positive message that the system has undertaken action to lessen any financial burden resulting from PFAS contamination.

Time is of the essence; the EPA recently set health advisory levels for PFAS as low as 4 parts per quadrillion. The EPA is in the process of establishing an enforceable maximum contaminant level (MCL) under the Safe Drinking Water Act, which essentially means that a system with any level of detection is likely to be out of compliance with the federal standard. Finally, EPA is planning to designate PFOS and PFOA as hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). All these factors raise the potential for a large financial impact if these forever compounds are detected at your utility.

The Oregon Association of Water Utilities encourages you to take the first step and register your utility at www.napolilaw.com/nrwa-pfas.

Sincerely,
Jason Green, Executive Director

Hank Naughton, Partner





PFAS Cost Recovery Program

The Oregon Association of Rural Water Utilities and the National Rural Water Association engaged the law firm of Napoli Shkolnik to file a cost recovery action to provide water and wastewater systems the opportunity to recover any current or future expenses for testing, treatment and remediation of PFAS contamination. Registering onto the cost recovery rolls is like an insurance policy without a premium and if asked by your customers, a strong positive message that the system has undertaken action to lessen any financial burden resulting from PFAS contamination.

Time is of the essence; we encourage all systems to register NOW!

NO COST

- Zero upfront cost to register the utility onto the cost rolls.
- A system must be registered prior to any settlement or judgement being reached in order to benefit.

DON'T MISS OUT

- While there is no timeframe as to when a settlement may be finalized, those settlement talks are underway.

NO TESTING REQUIRED

- There is no threshold or cost to register onto the cost recovery rolls.
- Systems should register regardless of testing or detection status.

COMPLY WITH GUIDELINES

- The EPA recently set health advisory levels for PFAS as low as 4 parts per quadrillion.
- A system with any level of detection is likely to be out of compliance with the federal standard.

HOW TO REGISTER AND PROTECT YOUR UTILITY FROM OUT-OF-POCKET COSTS:



Call Hank Naughton, Managing Partner at 978-852-3643



Email Hank Naughton, Managing Partner, at hnaughton@napolilaw.com



Register at www.napolilaw.com/nrwa-pfas

Formal presentations are available to your utility and can be arranged by contacting Hank Naughton at hnaughton@napolilaw.com or 978-852-3643.



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