

Code of Alabama [Currentness](#)

Title 11. Counties and Municipal Corporations.

▢ [Subtitle 1. Provisions Applicable to Counties Only. \(Refs & Annos\)](#)→ [Chapter 19. Comprehensive Land-Use Management in Flood-Prone Areas. \(Refs & Annos\)](#)→ **§ 11-19-1. Definitions.**

For the purposes of this chapter, the following words and phrases unless otherwise clearly indicated shall have the following meanings:

(1) COUNTY GOVERNING BODY. The county commission of each county in this state.

(2) FLOOD or FLOODING. The general and temporary condition of partial or complete inundation of normally dry land areas:

a. From the overflow of streams, rivers, and other inland waters, or

b. From tidal surges, abnormally high tidal waters, tidal waves, or rising coastal waters resulting from tsunamis, hurricanes, or other severe storms.

(3) FLOOD-PRONE AREA. Any area with a frequency of inundation of once in 100 years as defined by qualified hydrologists or engineers using methods that are generally accepted by persons engaged in the field of hydrology and engineering.

(4) LAND-USE AND CONTROL MEASURES. Zoning ordinances, subdivision regulations, building codes, health regulations, and other applications and extensions of the normal police power to provide safe standards of occupancy for prudent use of flood-prone areas.

(5) SUBDIVISION. The division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, for sale or building development. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

§ 11-19-2. Purpose of chapter.

Because of the great financial and economic loss, as well as human suffering, caused by floods and flooding in

this state and despite plans and programs directly or indirectly affecting the control of flood waters and the reduction of flooding, there also exists a clear and definite public need for a program to provide flood insurance coverage in flood-prone areas of this state.

It is the declared purpose of this chapter to provide in each county of this state a comprehensive land-use management plan by:

- (1) Constricting the development of land which is exposed to flood damage in the flood-prone areas;
- (2) Guiding the development of proposed construction away from locations which are threatened by flood hazards;
- (3) Assisting in reducing damage caused by floods; and
- (4) Otherwise improving the long-range management and use of flood-prone areas.

§ 11-19-3. Adoption of zoning ordinances and building codes for flood-prone areas outside municipalities.

The county commission in each county of this state is hereby authorized and may adopt zoning ordinances and building codes for flood-prone areas which lie outside the corporate limits of any municipality in the county.

Each such county commission shall have broad authority to:

- (1) Establish or cause to be established comprehensive land-use and control measures which shall specifically include the control and development of subdivisions in flood-prone areas;
- (2) Establish or cause to be established building codes and health regulations incorporating such minimum standards as shall be necessary to reduce flood damage in flood-prone areas;
- (3) Provide such standards of occupancy for the prudent use of flood-prone areas in the county;
- (4) Provide for the preparation of maps clearly delineating flood-prone areas and floodways in the county and to keep the same for public inspection;
- (5) Make such studies as may be necessary to carry out the purposes of this chapter;

(6) Employ such technical and/or advisory personnel, including the establishment of a county planning commission, as is deemed necessary or expedient; and

(7) Adopt ordinances for the enforcement of all such regulations.

§ 11-19-4. Land-use and control measures.

Land-use and control measures shall provide land-use restrictions based on probable exposure to flooding. Measures specified in this section shall:

(1) Prohibit inappropriate new construction or substantial improvements in the flood-prone areas;

(2) Control land uses and elevations of all new construction within the flood-prone area;

(3) For coastal flood-prone areas prescribed land uses and minimum elevations of the first floors of buildings and include consideration of the need for bulkheads, seawalls, and pilings;

(4) Be based on competent evaluation of the flood hazard as revealed by current authoritative flood-prone information;

(5) Be consistent with existing flood-prone management programs affecting adjacent areas and applicable to appropriate state standards; and

(6) Prescribe such additional standards as may be necessary to comply with federal requirements for making flood insurance coverage under the National Flood Insurance Act of 1968 available in this state.

§ 11-19-5. Subdivision regulations generally.

In addition to land-use restrictions commensurate with the degree of the flood hazards in various parts of the area, there shall be such subdivision regulations as may be necessary:

(1) To prevent the inappropriate development of flood-prone lands;

(2) To encourage the appropriate location and elevation of streets, sewers and water systems and the reservation of adequate and convenient open space for utilities;

(3) To provide for adequate drainage so as to minimize exposure to flood hazards and to prevent the aggravation of flood hazards; and

(4) To require such minimum elevation of all new developments as required.

§ 11-19-6. Building codes and health regulations.

Building codes and health regulations shall include all applicable state and local provisions and shall cover all public and private construction and development in flood-prone areas, including, but not limited to, private homes, farm buildings, all buildings (except accessory buildings of under 200 square feet of floor space), streets, avenues, roadways, alleyways, and easements, electricity, water systems, and sewerage disposal systems. Such regulations may require that all proposed improvements and developments in flood-prone areas will:

(1) Properly elevate structures so as to assure protection from reasonably expected flooding;

(2) Design buildings so as to prevent flotation and collapse, giving special attention to the adequacy of foundations and to prevent damage to nonstructural elements;

(3) Provide for the protection of heating systems and other critical mechanical or electrical installations from damage by flooding;

(4) Not create unhealthful areas of pondage or accumulation of debris and obstacles in flooding situations;

(5) Provide adequate controls on the placement of septic tanks to avoid contamination during flooding;

(6) Provide adequate sewerage and water systems which will not be adversely affected by flooding; and

(7) Require and encourage flood proofing to the maximum extent practicable in connection with all proposed major improvements, repairs, and rehabilitations of existing structures.

§ 11-19-7. Submission of plans and specifications for construction and development in flood-prone areas; issuance of permits and fees therefor; disposition of fees.

The county commission desiring to participate in this program shall require every person, firm, corporation, or agency to submit plans and specifications for all proposed construction and development in flood-prone areas lying outside the corporate limits of municipalities of the county prior to commencing operations. If such

plans and specifications conform in every respect with the applicable specifications, rules, and regulations adopted by the county commission, said county commission shall issue a permit therefor and shall charge such issuance fee as the governing body shall agree is just and reasonable. All such fees shall be deposited in a special fund in the county treasury and shall be used to enforce the provisions of this chapter, and no permits shall be issued for any construction or development for which plans and specifications are not in substantial compliance with the specifications, rules, and regulations adopted by the county governing body; provided, that nothing in the foregoing shall be construed to require a permit for, or otherwise relate to, the location, erection, construction, reconstruction, alteration, or maintenance of utility poles, towers, lines, conduits, pipes, mains, or of any utility facilities constructed pursuant to authority conferred by statutes, franchises, certificates of convenience and necessity, licenses, or easements.

§ 11-19-8. County planning commission -- Creation; composition; qualifications, appointment, terms of office, removal and compensation of members; vacancies.

The county commission may, by resolution or ordinance, create a county planning commission for the purpose of enforcing this chapter. The county commission shall appoint not less than five nor more than 11 members to the commission. The probate judge, chairman, or similar presiding officer of the county governing body shall be an ex officio member of said commission and shall vote only in case of a tie vote at a meeting wherein the entire membership is present and has voted. Members of the county commission may serve as members of the planning commission notwithstanding the provisions of [Section 11-3-2](#), or any other provisions limiting the offices such governing officials may hold. The term of the ex officio member shall correspond to his official tenure. The terms of each appointive member shall be four years; provided, that, in the initial appointments to the commission, a majority, but not exceeding three fifths of the total membership of the commission, shall be appointed for two years and the remaining members for four years; and provided further, that any members of the county commission appointed to the planning commission for a term exceeding their official tenure as a member of the county commission shall, notwithstanding, continue to be a member of the said commission until the expiration of their appointment as such unless otherwise removed as subsequently provided in this section. Any vacancy in the membership of the planning commission shall be filled for the unexpired term in the same manner as the original appointment. Any appointed member of the commission shall be subject to removal by the county commission for cause after written notice. All members of the county planning commission shall serve as such without compensation.

§ 11-19-9. County planning commission -- Adoption of bylaws; maintenance of record of transactions, etc.; officers; meetings; appointment of employees and staff; acceptance and expenditure of funds.

The county planning commission shall adopt bylaws for the transaction of business and shall keep a record of its transactions, resolutions, findings, and determinations, which record shall be a public record. The county planning commission shall elect a chairman and a vice-chairman from among the appointed members who shall serve for one year with eligibility for reelection. The county planning commission shall appoint a secretary who may be an officer or an employee of the county commission or a member of the county planning commission. The county planning commission shall meet at least once each month at the call of the chairman

and at such other times as the chairman or county planning commission may determine. The county planning commission may appoint such employees and staff as it may deem necessary for its work. In the performance of its duties, the county planning commission may cooperate with, contract with, or accept funds from federal, state, or local public or semipublic agencies or private individuals or corporations, may expend such funds, and may carry out such cooperative undertakings and contracts. It may make expenditures for the purchase of required equipment and supplies. The expenditures of the county planning commission, exclusive of gifts, grants, or contract receipts, shall be within the amounts appropriated for the purpose by the county commission.

§ 11-19-10. Powers and duties of planning commission generally; special surveys or studies; right of entry upon lands for preparation of examinations and surveys.

(a) It shall be the function and duty of the county planning commission to make and maintain comprehensive surveys and studies of existing conditions and probable future developments in the flood-prone area of the county and to prepare comprehensive plans for physical, social, and economic growth as will best promote the public health, safety, morals, convenience, prosperity, or the general welfare as well as efficiency and economy in the development of the flood-prone area of the county. The county planning commission shall have the authority to:

(1) Promote public interest and understanding of the economic and social necessity for long-term, coordinated county planning.

(2) Confer and cooperate with the federal, state, municipal, and other county and regional authorities regarding matters pertaining to or affecting the planning or development of said county, or vice versa, for the purpose of assuring proper coordination of county development with that of other political subdivisions.

(3) Prepare and recommend for adoption to the appropriate county commission or authorities a zoning ordinance and map for the flood-prone area of the county.

(4) Prepare and recommend for adoption to the appropriate county commission or authorities regulations for the subdivision of land within the flood-prone areas of the county jurisdiction and administer the regulations that they may be adopted.

(b) Upon request of the county planning commission, the county commission may, from time to time, for the purpose of special surveys under the direction of the county planning commission, assign to the county planning commission members of the staff or the personnel of any county administrative department, bureau, or agency or may direct any such department, bureau, or agency to make special surveys or studies for the county planning commission. All public officials, departments, and agencies may upon request furnish the county planning commission within a reasonable time with such available information as it may require for its work.

The county planning commission, its members, officers, and employees, in the performance of their functions may enter upon any land and make necessary examinations and surveys. In general, the commission shall have such powers as may be appropriate to enable it to fulfill its functions and duties.

§ 11-19-11. Subdivision regulations -- Procedure for adoption; certification of adopted regulations to probate judge.

The county commission is hereby authorized to enact an ordinance regulating the platting and recording of any subdivision of land as defined by this chapter lying within the flood-prone area of the county. The county planning commission shall have the authority to prepare and submit to the county commission for its consideration and adoption regulations governing the subdivision of land within its jurisdiction. Before the county commission may adopt subdivision regulations or any amendment thereto under the provisions of this chapter, the said county commission shall hold a public hearing on the proposed regulations. A notice of said public hearing shall be given once a week for two consecutive weeks in a newspaper of general circulation in the county, and a copy of the proposed subdivision regulations shall be made available to any interested person before said public hearing. A copy of the subdivision regulations as adopted shall be certified to the office of the judge of probate.

§ 11-19-12. Subdivision regulations -- Scope and contents.

In exercising the powers granted to it by this chapter, the county planning commission shall prepare and recommend to the county commission for adoption regulations governing the subdivision of land within the flood-prone area of the county. Such regulations may provide for the harmonious development of the flood-prone area of the county; for the coordination of streets within subdivisions with other existing or planned streets; for the size of blocks and lots; for the dedication or reservation of land for streets, school sites, and recreation areas and of easements for utilities and other public services and facilities; and, for a distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience, prosperity, or general welfare.

Such regulations may include requirements as to the extent to which and the manner in which streets shall be graded, surfaced, and improved, and water, sewers, septic tanks, as required by state health regulations, and other utility mains, piping, connections, or other facilities shall be installed as a condition precedent to the approval of the plat. Such regulations may provide that, in lieu of the completion of such work and installations previous to the final approval of a plat, the county commission may accept a bond in any amount and surety and conditions satisfactory to it, providing for and securing to the county the actual construction and installations of such improvements and utilities within a period specified by the county planning commission and expressed in the bond, and the county is hereby granted the power to enforce such bonds by all appropriate legal and equitable remedies.

§ 11-19-13. Approval of plats of subdivision before recordation -- When required.

Whenever subdivision regulations have been adopted by the county commission as provided in [Section 11-19-11](#), then no plat of a subdivision that lies within the flood-prone area of the county shall be filed or recorded in the office of the judge of probate of the county until it shall have been submitted to and approved by the county planning commission and such approval entered in writing on the plat by the chairman and secretary of the county planning commission.

§ 11-19-14. Approval of plats of subdivision before recordation -- Procedure for approval, etc.

The county planning commission shall act to approve or disapprove a subdivision plat within 30 days after its submission; otherwise, such plat shall be deemed to have been approved and a certificate to that effect shall be issued by the county planning commission on demand; provided, however, that the applicant for the commission's approval may waive this requirement and consent to an extension of such period. The grounds for disapproval of any plat shall be stated upon the records of the county planning commission. Any plat submitted to the county planning commission shall contain the name and address of a person to whom notice of a hearing shall be sent, and no plat shall be acted on by the commission without a public hearing thereon. Notice shall be sent to the said address by registered or certified mail of the time and place of such hearing not less than five days before the date fixed therefor. Similar notice shall be mailed to the owners of land immediately adjoining the platted land as their names appear upon the plats in the county tax assessor's office or on the tax records of the county. Approval of a plat shall not be deemed to constitute or effect an acceptance by the public of any street or other open space shown upon the plat.

§ 11-19-15. Transferring, sale, etc., of lands in subdivision prior to approval of plat.

Whoever, being the owner or agent of the owner of any land located within a subdivision within the flood-prone areas transfers or sells or agrees to sell or negotiates to sell any land by reference to, or exhibition of or by other use of a plat of a subdivision before such plat has been approved by the county planning commission and recorded or filed in the office of the judge of probate shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided by law, and the description of such lot or parcel by metes and bounds in the instrument of transfer or conveyance or other document used in the process of selling or transferring shall not exempt the transaction from the penalties or remedies provided in this chapter. The county commission may enjoin such transfer or sale or agreement by action for injunction brought in any court of equity jurisdiction or may recover the same penalty by a civil action in any court of competent jurisdiction.

§ 11-19-16. Grant of zoning powers; scope of powers.

For the purpose of promoting the health, safety, morals, convenience, order, prosperity, and general welfare of the state and counties, any county commission is hereby empowered to divide the portion of the county within the flood-prone area of the county into districts of such number, shape, and area as may be found best suited

to carry out the purposes of this chapter and to provide within such districts for standards relating to the location, bulk, height, minimum elevation, number of stories, and size of buildings and other structures, the percentage of lot which may be occupied, the sizes of yards, courts, and other open spaces, the density and distribution of population, the uses of buildings and structures and of land for trade, residence, recreation, agriculture, forestry, conservation, water supply, sanitation, floodways, public activities, and other purposes.

Such provisions shall be made in accordance with a comprehensive plan of the flood-prone area and shall be designed to lessen congestion in the streets and highways; to secure safety from fire, flood, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water supply, sewerage, schools, parks, and other public requirements.

Such provisions shall be made with reasonable consideration, among other things, of the character of the land and district and its peculiar suitability for particular uses and with a view of promoting desirable living conditions, sustaining the stability of neighborhoods, protecting property against blight and depreciation, securing economy in governmental expenditures, conserving the value of buildings, and encouraging the most appropriate use of land and of buildings and structures throughout the flood-prone area of the county.

§ 11-19-17. Manner in which territory zoned.

For the purpose of providing for the division of the territory into districts, consonant with the conditions provided in this section, the county planning commission may make and certify to the county commission a single zoning plan for all the territory of the area which lies within the jurisdiction of the county planning commission or may make and certify separate and successive zoning plans for parts of the flood-prone area for which technical information is available or which for other reasons it deems to have appropriate territorial unity for a zoning plan, and correspondingly any zoning ordinance or resolution enacted by the county commission may cover and include the whole territory lying within its jurisdiction or such territory as the county commission deems to be an appropriate territorial unit for a zoning plan; provided, that no resolution governing more or less than the entire area shall be enacted or put into effect until it is first submitted to the county planning commission for additional review and comment.

§ 11-19-18. Procedure for preparation, adoption, amendment, etc., of zoning ordinance and map.

(a) The planning commission shall have the duty of preparing a zoning plan, including both the written provisions of the ordinance and a map or maps showing the district boundaries. The commission may hold such public hearings as it deems necessary concerning the zoning ordinance. It shall certify the zoning ordinance and map to the county commission.

On receipt of a zoning ordinance and map from the county planning commission, the county commission shall

hold a public hearing thereon, after which it may adopt the zoning ordinance and map as recommended, adopt it with modifications, or reject it.

(b) The zoning ordinance, including the map or maps, may from time to time be amended, supplemented, changed, modified, or repealed. No amendment shall become effective unless it first is submitted to the county planning commission for its recommendations; failure of the county planning commission to make recommendations for a period of 30 days after the amendment has been referred to it shall constitute a favorable recommendation. No amendment may be adopted until after a public hearing thereon as prescribed above.

(c) A notice of any public hearing required by this section shall be given once a week for two consecutive weeks in a newspaper published in the county or, if there be no newspaper published in the county, by posting such notice at four public places in the county, said notice to be published the first time or posted not less than 15 days prior to the date fixed for said hearing. Said notice of public hearing shall include:

(1) Date of hearing;

(2) Location of hearing;

(3) Location where proposed amendment may be reviewed by the public; and,

(4) Time of public hearing.

§ 11-19-19. County board of adjustment.

In availing itself of the powers conferred by this chapter, the county commission shall provide for the appointment of a board of adjustment and may provide that the said board of adjustment shall, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the zoning ordinance or regulations in harmony with its general purposes and interests and in accordance with general or specific rules adopted pursuant to this chapter.

The board of adjustment shall consist of five members who shall be appointed from among the residents of the county by the county commission to serve for a term of three years; provided, that in establishing the board of adjustment, the county commission may designate the terms of the members first appointed on such basis that the term of one member will expire each year thereafter. Such members shall be removable for cause by the county commission upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member by interim appointees designated by the county commission. The board shall select its chairman and adopt rules in accordance with the provisions of any ordinance adopted pursuant to this chapter. Meetings of the board shall be held at the call of the chairman and at such other times as the board may de-

termine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. Appeals to the board of adjustment may be taken by any person aggrieved or by any county official or administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing notice of appeal, specifying the grounds thereof, with the officer from whom the appeal is taken and with the board of adjustment. The officer from whom the appeal is taken shall transmit forthwith to the board all papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. Such proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown.

The board of adjustment shall have the following powers:

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative body or official in the enforcement of this chapter or of any ordinance adopted pursuant thereto;
- (2) To hear and decide on requests for special exceptions to the terms or provisions of the ordinance upon which such board is required to pass; and
- (3) To authorize upon appeal in special cases such variance from the yard, open space, bulk and height requirements of the ordinance as will not be contrary to the public interest, where, owing to special conditions of the building site or land, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, all in order that the spirit of the ordinance shall be observed and substantial justice done; provided, however, that nothing in this chapter shall authorize the board of adjustment to approve a use not permitted by the zoning ordinance for the district in which the building site is located.

In exercising the above-mentioned powers, such board may in conformity with the provisions of this chapter reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and make any such order, requirement, decision, or determination as ought to be made and, to that end, shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance. The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof

or of such portions thereof as may be called on by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

§ 11-19-20. Appeals from final judgment of board of adjustment.

Any party aggrieved by any final judgment or decision of a board of adjustment established pursuant to the provisions of this chapter may within 15 days thereafter appeal therefrom to the court having jurisdiction within the county wherein the affected property of the aggrieved party is located by filing with such board a written notice of appeal specifying the judgment or decision from which appeal is taken. In case of such appeal, such board shall cause a transcript of the proceedings in the action to be certified to the court to which the appeal is taken and the action in such court shall be tried de novo.

§ 11-19-21. Institution of actions to prevent, correct, etc., unauthorized construction of buildings, subdivision or use of lands, etc.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any subdivision is established or land used in violation of this chapter or of any ordinance or other regulation made under the authority conferred hereby, the county attorney, or other appropriate administrative officer of the county in which the violation occurs may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or subdivision of the land or use of the land to restrain, correct, or abate such violation, or to prevent the occupancy of any such building, structure, or subdivision of land or to prevent any illegal act, conduct, business, or misuse in or upon any premises regulated under the authority conferred by this chapter.

§ 11-19-22. Penalties for violations of provisions of chapter, ordinances, etc.

Any person, firm, corporation or agency who, in violation of this chapter, fails to obtain the permit required herein or who violates any provision of the building code or zoning ordinances or other regulation, ordinance, or code shall be guilty of a misdemeanor and, upon conviction, may be fined not more than \$500.00, or may be imprisoned in the county jail for not more than one year or may be both fined and imprisoned.

§ 11-19-23. Conflict of certain regulations under chapter with other local ordinances, regulations, etc.

Wherever the regulations made under authority of this chapter require a greater width or size of yards or open spaces, or require a lower height of buildings, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other local statute or like ordinance or regulation, the provisions of the regulations made under the authority of this chapter shall govern.

Wherever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or other open space, or require a lower height of buildings, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by regulations made under authority of this chapter, the provisions of such statute or local ordinance or regulation shall govern.

§ 11-19-24. Construction of chapter not to impair right of eminent domain, etc., granted to utilities.

This chapter shall not be construed to impair the right of eminent domain granted heretofore or hereafter by the laws of this state to utilities, whether public or private, or their right to design, locate, erect, construct, reconstruct, alter, or maintain utility poles, towers, lines, conduits, pipes, or mains reasonably required in the public service or their right to exercise authority conferred by statute, franchise, certificate of convenience and necessity, license, or easement.

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