



## Department of Public Works

### MEMORANDUM

To: Mayor Timothy Woerther and Wildwood City Council Members

From: Rick C. Brown, Director of Public Works

Date: April 22, 2016

Re: Parental Neglect Ordinance

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Capt. Tim Tanner, Wildwood Precinct Commander, has been notified by Wildwood Prosecuting Attorney Bart Calhoun, that that our current City of Wildwood Parental Neglect Ordinance (210.040) does not conform with current St. Louis County Code or State Law, and thus in its current form may not withstand legal review.

This matter was discussed at the February meeting of the Board of Public Safety. At that meeting, the Board recommended that Section 210.040 of the Wildwood Municipal Code relating to the offense of parental neglect be amended in order to conform to the St. Louis County Code (716.176) and State law on the subject.

Therefore, Bill #2179, amending our current City Code Section 210.040, has been prepared by City Attorney Rob Golterman, and placed on the April 25, 2016 City Council Meeting Agenda for consideration.

I will be available for any questions or comments at the April 25, 2016 City Council Work Session.

RCB

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**AN ORDINANCE AMENDING CHAPTER 210 OF THE CITY OF WILDWOOD, MISSOURI MUNICIPAL CODE BY REPEALING AND RE-ENACTING SECTION 210.040 PERTAINING TO THE OFFENSE OF PARENTAL NEGLECT.**

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**WHEREAS**, the Board of Public Safety is recommending that Section 210.040 of the Wildwood Municipal Code relating to the offense of parental neglect be amended in order to conform to the St. Louis County Code and State law on the subject; and

**WHEREAS**, the City Council concurs with this recommendation and desires to amend Section 210.040 as set forth herein.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILDWOOD, MISSOURI, AS FOLLOWS:**

**Section One.** Chapter 210 of the Code of Ordinances entitled “Offenses” is hereby amended by deleting the existing Section 210.040 (Parental Neglect - Prohibited) in its entirety and enacting in its place a new Section 210.040, including a new title, to read as follows:

210.040. Child Endangerment - Prohibited.

- A. A person commits the offense of endangering the welfare of a child if:
  - 1. He or she knowingly acts in a manner that creates a substantial risk to the life, body or health of a child less than seventeen (17) years old; or
  - 2. He or she knowingly permits, encourages, aids or causes a child less than seventeen (17) years old to commit an act which violates the statutes of the United States, the statutes of the State of Missouri or the ordinances of the City of Wildwood, Missouri; or
  - 3. He or she operates a vehicle in violation of Subdivision (2) or (3) of Subsection 1 of Section 565.024 RSMo, Subdivision (4) of Subsection 1 of Section 565.060 RSMo, Section 577.010 RSMo, Section 577.012 RSMo, or Section 342.010 or 342.020 of this Code, while knowing that a child less than seventeen (17) years old is present in the vehicle.
  - 4. He or she unlawfully possesses, sells, manufactures or uses any controlled substance or drug paraphernalia as each is defined by chapter 195 RSMo, in violation of the statutes of the United States, the statutes of the State of Missouri or Section 210.350 or 210.360 of this Code, while knowing that a child less than seventeen (17) years old is present;

B. Nothing in this Section shall be construed to mean the welfare of a child is endangered for the sole reason that he or she is being provided nonmedical remedial treatment recognized and permitted under the laws of this State.

**Section Two.** This Ordinance shall be in full force and effect after its passage and approval.

This Bill was passed and approved this \_\_\_\_ day of \_\_\_\_\_, 2016 by the City Council of the City of Wildwood, Missouri after having been read by title two (2) times prior to its passage.

\_\_\_\_\_  
Presiding Officer

\_\_\_\_\_  
JAMES R. BOWLIN, MAYOR

ATTEST:

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Clerk



INTER-OFFICE MEMORANDUM

January 27, 2016

TO: MR. RYAN THOMAS, City Administrator  
City of Wildwood

FROM: CAPTAIN TIM TANNER, Commander  
Wildwood Precinct

SUBJECT: PARENTAL NEGLECT ORDINANCE (210.040)

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The intent of this memorandum is to request that the current City of Wildwood Parental Neglect Ordinance (210.040) be repealed and or amended.

The current Parental Neglect Ordinance was adopted from St. Louis County (Section 716.176) on September 1, 1995. Effective November 10, 2010, St. Louis County repealed and re-enacted Section 716.176 pertaining to Parental Neglect and Child Endangerment.

The City of Wildwood Prosecuting Attorney Bart Calhoun has indicated that the City of Wildwood Parental Neglect Ordinance (210.040) in its current form may not withstand the legal review on appeal.

It is recommended that the current Parental Neglect Ordinance (210.040) be repealed and re-enacted similar to the current St. Louis County Ordinance (716.176) titled Child Endangerment.

Attachments: City of Wildwood Parental Neglect Ordinance (210.040)  
St. Louis County Child Endangerment Ordinance (716.176)  
RSMO 568.050 Endangering the Welfare of a Child

**CITY OF WILDWOOD PARENTAL NEGLECT ORDINANCE**

**Section 210.040\_Parental Neglect — Prohibited.**

[Ord. No. 101 §1, 9-1-1995]

- A. *Definitions.* For the purpose of this Section, the following words and phrases are defined as follows:

**CRIMINAL ACT**

An act which violates the Statutes of the United States, the Statutes of the State of Missouri or the ordinances of the City of Wildwood, including moving traffic violations.

**MINOR**

Any person under the age of seventeen (17).

**PARENT**

Mother, father, legal guardian or any person having the care or custody of a minor.

- B. No parent shall knowingly permit, encourage, aid or cause a minor to commit a criminal act nor engage in any conduct which would be injurious to the minor's morals or health.
- C. No parent shall fail to exercise customary and effective control over a minor so as to contribute to, cause or tend to cause a minor to commit a criminal act.
- D. *Notification Of Responsibility.*
1. Whenever a minor shall be arrested or detained for the commission of any criminal act within the City of Wildwood the Police Department shall immediately notify the minor's parent of the arrest or detention and shall advise the parent of his/her responsibility under this Section.
  2. A record of said notifications shall be kept by the Police Department.

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/Ords/2010

11/10/2010 21k 10 hits

Substitute Bill No. 1 for

BILL NO. 294, 2010

ORDINANCE NO. 24,557, 2010

Introduced by Councilmembers Fraser & Wasinger

AN ORDINANCE

AMENDING CHAPTER 716, TITLE VII SLCRO 1974 AS AMENDED, "PETTY OFFENSES CODE," BY REPEALING AND RE-ENACTING SECTION 716.176 PERTAINING TO PARENTAL NEGLECT AND CHILD ENDANGERMENT.

BE IT ORDAINED BY THE COUNTY COUNCIL OF ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

SECTION 1. Chapter 716, Title VII SLCRO 1974 as amended, "Petty Offenses Code," is amended by repealing and re-enacting Section 716.176 as follows:

**716.176 Child Endangerment – Prohibited.-1. A person commits the offense of endangering the welfare of a child if:**

(1) He or she knowingly acts in a manner that creates a substantial risk to the life, body or health of a child less than seventeen (17) years old; or

(2) He or she knowingly permits, encourages, aids or causes a child less than seventeen (17) years old to commit an act which violates the statutes of the United States, the statutes of the State of Missouri or the ordinances of St. Louis County; or

(3) He or she operates a vehicle in violation of Subdivision (2) or (3) of Subsection 1 of Section 565.024 RSMo, Subdivision (4) of Subsection 1 of Section 565.060 RSMo, Section 577.010 RSMo, Section 577.012 RSMo, or Sections 1212.010 or 1212.015 of this Code, while knowing that a child less than seventeen years old is present in the vehicle.

(4) He or she unlawfully possesses, sells, manufactures or uses any controlled substance or drug paraphernalia as each is defined by Chapter 195 RSMo, in violation of the statutes of the United

States, the statutes of the State of Missouri or Sections 716.170 or 716.172 of this Code, while knowing that a child less than seventeen years old is present:

2. Nothing in this section shall be construed to mean the welfare of a child is endangered for the sole reason that he or she is being provided nonmedical remedial treatment recognized and permitted under the laws of this state.

**[Section 716.176 Parental Neglect Prohibited. -1. Definitions –**

For the purposes of this ordinance the following words and phrases are defined as follows:

- (1) Parent: Mother, father, legal guardian or any person having the care or custody of a minor.
- (2) Minor: Any person under the age of seventeen (17).
- (3) Criminal Act: An act which violates the statutes of the United States, the statutes of the State of Missouri or the ordinances of St. Louis County, including moving traffic violations.

2. No parent shall knowingly permit, encourage, aid or cause a minor to commit a criminal act nor engage in any conduct which would be injurious to the minor's morals or health.

3. No parent shall fail to exercise customary and effective control over a minor so as to contribute to, cause or tend to cause a minor to commit a criminal act.

4. Notification of responsibility –

(1) Whenever a minor shall be arrested or detained for the commission of any criminal act within the unincorporated part of St. Louis County, the St. Louis County Police Department shall immediately notify the minor's parent of the arrest or detention and shall advise the parent of his responsibility under this ordinance.

(2) A record of said notifications shall be kept by the St. Louis County Police Department.]

SECTION 2. Every person found guilty of violating any of the sections of this ordinance shall be punished as provided in Section 716.180 SLCRO 1974 as amended. Note – Under certain circumstances this offense can be a felony under state law.

ADOPTED: NOVEMBER 9, 2010 BARBARA FRASER  
CHAIR, COUNTY COUNCIL

APPROVED: NOVEMBER 10, 2010 CHARLIE A. DOOLEY  
COUNTY EXECUTIVE

ATTEST: GENEVIEVE M. FRANK  
ADMINISTRATIVE DIRECTOR

APPROVED AS TO LEGAL FORM:

Patricia Redington  
COUNTY COUNSELOR

## ST. LOUIS COUNTY CHILD ENDANGERMENT AND RELATED ORDINANCES

### **716.176 - Child Endangerment—Prohibited.**

1. A person commits the offense of endangering the welfare of a child if:
  - (1) He or she knowingly acts in a manner that creates a substantial risk to the life, body or health of a child less than seventeen (17) years old; or
  - (2) He or she knowingly permits, encourages, aids or causes a child less than seventeen (17) years old to commit an act which violates the statutes of the United States, the statutes of the State of Missouri or the ordinances of St. Louis County; or
  - (3) He or she operates a vehicle in violation of Subdivision (2) or (3) of subsection 1 of section 565.024 RSMo, subdivision (4) of subsection 1 of section 565.060 RSMo, section 577.010 RSMo, section 577.012 RSMo, or section 1212.010 or 1212.015 of this Code, while knowing that a child less than seventeen (17) years old is present in the vehicle.
  - (4) He or she unlawfully possesses, sells, manufactures or uses any controlled substance or drug paraphernalia as each is defined by chapter 195 RSMo, in violation of the statutes of the United States, the statutes of the state or section 716.170 or 716.172 of this Code, while knowing that a child less than seventeen (17) years old is present;
2. Nothing in this section shall be construed to mean the welfare of a child is endangered for the sole reason that he or she is being provided nonmedical remedial treatment recognized and permitted under the laws of this state.

(O. No. 24557, 11-9-10)

### **1212.010 - Driving While Intoxicated.**

No person shall operate a motor vehicle while:(a) under the influence of alcohol; or (b) under the influence of any controlled substance as defined by RSMo Chapter 195; or (c) under the influence of model glue or any substance containing toluene, or (d) under the influence of any combination of alcohol and controlled substances, to such extent as to impair the person of full possession of normal faculties.

(O. No. 16148, 10-1-92)

### **1212.015 - Driving with Excessive Blood Alcohol Content.**

1. No person shall operate a motor vehicle upon the highways and roadways of St. Louis County with a blood alcohol content of eight one-hundredths (0.08) of one percent or more by weight of alcohol in his or her blood.
2. No person shall operate a commercial vehicle while having an alcohol concentration in his or her blood, breath, urine, or saliva of four one-hundredths (0.04) of one percent or more.

As used in this section, the term "commercial motor vehicle" shall mean any motor vehicle designed or used to transport passengers or property if:



- a) The vehicle has a gross combination weight rating of twenty-six thousand one (26,001) or more pounds inclusive of a towed unit which has a gross vehicle weight rating of ten thousand (10,000) pounds; or
  - (b) The vehicle has a gross vehicle weight rating of twenty-six thousand one (26,001) or more pounds; or
  - (c) The vehicle is designed to transport more than fifteen (15) passengers, including the driver; or
  - (d) The vehicle is transporting hazardous materials as defined in section 302.700 of the Revised Statutes of Missouri.
3. As used in this section, percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood and may be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes of determining the alcoholic content of a person's blood under this section, the test shall be conducted in accordance with provisions of sections 577.020 to 577.041 of the Revised Statutes of Missouri.
- (O. No. 20669, 10-16-01)

**716.170 - Drugs—Prohibited.**

1. A person shall not have in his possession, custody, or control any narcotic drug or marijuana as each is defined by the laws of the State of Missouri.
  2. A person shall not sell, offer for sale, prescribe, administer, dispense, distribute, give, or offer to give to any person a narcotic drug or marijuana as defined by the laws of the State of Missouri.
  3. This section shall not apply to any person who may be specifically authorized by law to possess, sell, prescribe, administer, dispense, distribute or give away a narcotic drug or marijuana.
- (O. No. 8573, 2-3-78)

**716.172 - Possession, Manufacture, Delivery and Advertising Drug Paraphernalia.**

1. No person shall use, or possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Controlled Substances Act.
  2. No person shall deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Controlled Substances Act.
  3. No person shall place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
- (O. No. 10116, 3-2-81)

**716.180 - Penalties.**

Every person who shall be convicted of a violation of any of the provisions of this chapter shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned in the St. Louis County Jail for not more than one year, or punished by both such fine and imprisonment.

(O. No. 3729, 10-28-65)

*Revisor's note—The revisor has supplied the word "punished" in the last clause of Section 716.180.*

**716.171 - Definitions for Section 716.172.**

For the purpose of Section 716.172, the following phrases are defined:

1. Controlled Substance as used herein shall be defined and include "Controlled Substances" as defined in and enumerated by authority of the Controlled Substances Act.
2. Controlled Substances Act means Chapter 195 of the Missouri Revised Statutes in effect upon the passage of this ordinance.
3. Drug Paraphernalia as used herein shall be defined and include all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Controlled Substances Act. It includes, but is not limited to:
  - a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
  - b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
  - c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
  - d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;
  - e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
  - f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
  - g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
  - h) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;
  - i) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
  - j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances; Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

- k) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
1. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
  2. Water pipes;
  3. Carburetion tubes and devices;
  4. Smoking and carburetion masks;
  5. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
  6. Miniature cocaine spoons, and cocaine vials;
  7. Chamber pipes;
  8. Carburetor pipes;
  9. Electric pipes;
  10. Air-driven pipes;
  11. Chillums;
  12. Bongs;
  13. Ice pipes or chillers.

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- (a) Statements by an owner or by anyone in control of the object concerning its use;
- (b) Prior convictions, if any, of an owner, or of anyone in control of the object, under any State or Federal Law relating to any controlled substance;
- (c) The proximity of the object, in time and space, to a direct violation of the Controlled Substances Act;
- (d) The proximity of the object to controlled substances;
- (e) The existence of any residue of controlled substances on the object;
- (f) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of the Controlled Substances Act; the innocence of an owner, or of anyone in control of the object, as to a direct violation of the Controlled Substances Act shall not prevent a finding that the object is intended for use as drug paraphernalia;
- (g) Instructions, oral or written provided with the object concerning its use;
- (h) Descriptive materials accompanying the object which explain or depict its use;
- (i) National and local advertising concerning its use;
- (j) The manner in which the object is displayed for sale;
- (k) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (l) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
- (m) The existence and scope of legitimate uses for the object in the community;
- (n) Expert testimony concerning its use.

(O. No. 10116, 3-2-81)

# Missouri Revised Statutes

## Chapter 568 Offenses Against the Family

←568.050

### Section 568.050.2

568.052→

August 28, 2015

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#### Until December 31, 2016--Endangering the welfare of a child in the second degree.

568.050. 1. A person commits the crime of endangering the welfare of a child in the second degree if:

(1) He or she with criminal negligence acts in a manner that creates a substantial risk to the life, body or health of a child less than seventeen years old; or

(2) He or she knowingly encourages, aids or causes a child less than seventeen years old to engage in any conduct which causes or tends to cause the child to come within the provisions of paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031; or

(3) Being a parent, guardian or other person legally charged with the care or custody of a child less than seventeen years old, he or she recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent him from coming within the provisions of paragraph (c) of subdivision (1) of subsection 1 or paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031; or

(4) He or she knowingly encourages, aids or causes a child less than seventeen years of age to enter into any room, building or other structure which is a public nuisance as defined in section 195.130; or

(5) He or she operates a vehicle in violation of subdivision (2) or (3) of subsection 1 of section 565.024, subdivision (4) of subsection 1 of section 565.060, section 577.010, or section 577.012 while a child less than seventeen years old is present in the vehicle.

2. Nothing in this section shall be construed to mean the welfare of a child is endangered for the sole reason that he or she is being provided nonmedical remedial treatment recognized and permitted under the laws of this state.

3. Endangering the welfare of a child in the second degree is a class A misdemeanor unless the offense is committed as part of a ritual or ceremony, in which case the crime is a class D felony.

(L. 1977 S.B. 60, A.L. 1984 H.B. 1616, A.L. 1988 H.B. 1340 & 1348, A.L. 1990 H.B. 1030 merged with H.B. 1370, et al., A.L. 2005 H.B. 353 and H.B. 972 merged with S.B. 37, et al., A.L. 2005 1st Ex. Sess. H.B. 2)

Effective 9-15-05

\*This section was amended by S.B. 491, 2014, effective 1-01-17. Due to the delayed effective date, both versions of this section are printed here.

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Missouri General Assembly

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# Missouri Revised Statutes

## Chapter 568 Offenses Against the Family

←568.045

### Section 568.050.1

568.050→

August 28, 2015

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#### **Beginning January 1, 2017--Endangering the welfare of a child in the second degree, penalties.**

568.050. 1. A person commits the offense of endangering the welfare of a child in the second degree if he or she:

(1) With criminal negligence acts in a manner that creates a substantial risk to the life, body or health of a child less than seventeen years of age; or

(2) Knowingly encourages, aids or causes a child less than seventeen years of age to engage in any conduct which causes or tends to cause the child to come within the provisions of paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031; or

(3) Being a parent, guardian or other person legally charged with the care or custody of a child less than seventeen years of age, recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent him or her from coming within the provisions of paragraph (c) of subdivision (1) of subsection 1 or paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031; or

(4) Knowingly encourages, aids or causes a child less than seventeen years of age to enter into any room, building or other structure which is a public nuisance as defined in section 579.105.

2. Nothing in this section shall be construed to mean the welfare of a child is endangered for the sole reason that he or she is being provided nonmedical remedial treatment recognized and permitted under the laws of this state.

3. The offense of endangering the welfare of a child in the second degree is a class A misdemeanor unless the offense is committed as part of an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity, in which case the offense is a class E felony.

(L. 1977 S.B. 60, A.L. 1984 H.B. 1616, A.L. 1988 H.B. 1340 & 1348, A.L. 1990 H.B. 1030 merged with H.B. 1370, et al., A.L. 2005 H.B. 353 and H.B. 972 merged with S.B. 37, et al., A.L. 2005 1st Ex. Sess. H.B. 2, A.L. 2014 S.B. 491)

Effective 1-01-17

2005	2005	2005	2005
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Missouri General Assembly

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