

ORDINANCE 24-5872

**AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING THAT THE BILLINGS, MONTANA CITY
CODE (BMCC) BE AMENDED BY REVISING ARTICLE
22-800 (STORM SEWERS) BY GENERALLY REVISING
THE TITLE OF THE ARTICLE, RATE METHODOLOGY,
BILLING, AND COLLECTION OF SERVICE CHARGES**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. That Article 22-800 of the Billings, Montana City Code (BMCC) is amended so that such section shall read as follows:

Article 22-800. – STORM SEWER SYSTEM RATES AND CHARGES

Sec. 22-801. – Costs and purpose.

The purpose of the rates and charges shall be to generate sufficient revenue to pay all costs of establishing, building, reconstructing, or extending the city's storm sewer system, authorized under MCA 7-13-4301, including but not limited to costs of construction, reconstruction, operation, maintenance, administration, depreciation and replacement of stormwater infrastructure, appurtenances, and sewers to dispose of stormwater and divert it from the sewage disposal plant and prevent pollution of sources of water supply, including the principal of and interest on all revenue bonds to be issued for that purpose, as authorized by MCA Title 7 Chapter 7 Part 44, or Title 7 Chapter 13 Part 43, as amended. All proceeds are deemed to be in payment for the use of the city storm sewer system.

Sec. 22-802. – Operation cost determination.

The City Administrator or the Public Works Department shall determine the total annual cost of operation and maintenance of the storm sewer system pursuant to policies adopted by the city council. The total annual cost of operation and maintenance of the storm sewer system shall include, but is not limited to, costs of planning, analysis, labor, personnel, repairs, capital improvements, equipment, equipment replacement, maintenance, modifications, power, permitting, sampling, administration, debt service, and amounts needed to fund reserves.

Sec. 22-803. – Monthly service charge.

A monthly storm sewer system service charge is imposed and made applicable to all premises within the city limits. Stormwater service charges shall be included with the monthly utility billing. All charges shall be assessed to premises within the City upon a methodology and at a rate to be established by Council resolution and in accord with MCA 7-13-4304.

All storm sewer system service charges shall be collected as provided in this article and credited to a fund to be known as "The Municipal Storm Sewer System Fund", which shall be at all times segregated and maintained as a separate fund.

Sec. 22-804. – Appeal and adjustment.

Any party who considers the charges applicable to his premises unfair, inequitable or unreasonable may apply to the public works director for adjustment thereof, stating the facts and grounds of complaint, and the public works director may notify the owner of any premises as to which he considers the rates and charges to be inadequate. In either case, the public works director shall cause appropriate investigation and report to be made by himself or his duly authorized representative.

The public works director, or his duly authorized representative, shall consider each and all of such complaints and reports and communicate his findings with respect thereto to the city council. The council shall have the right to order a public hearing as to any such matter and, if convinced that an adjustment of the charges for such premises is necessary to provide reasonable equality with those charged to others, it shall so provide, either by ordinance amendatory hereto, or by resolutions fixing special charges for individual premises during the period of continuance of special circumstances which make the standard charges unfair, inequitable, unreasonable or inadequate.

Sec. 22-805. – Delinquent charges.

Bills for storm sewer system service charges shall become delinquent twenty-five (25) days from the date of billing if not paid. If the bill is not paid within forty (40) days after the billing date, the water service to the customer shall be discontinued after written notice of delinquency is mailed to the customer until the delinquent amount due and owing is paid. The city invokes use of the procedures set forth under MCA 7-13-4309 for collection of the payment due and owing as a tax against the lot or parcel of real property to which stormwater sewer system service was furnished and payment is delinquent and also permits the city to bring suit to collect payment of delinquent charges as a debt owing the city.

Section 2. EFFECTIVE DATE. This ordinance shall be effective on July 1, 2024.

Section 3. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading the 11th day of March, 2024.

PASSED, ADOPTED and APPROVED on second reading this 25th day of March, 2024.



Attest:

BY: Denise R. Bohlman
Denise R. Bohlman, City Clerk

CITY OF BILLINGS

BY: William A. Cole
William A. Cole, Mayor

City Council Regular

Date: 03/25/2024
Title: Second Reading Ordinance Amending BMCC, Article 22-800, Storm Sewers
Presented by: Jennifer Duray
Department: Public Works
Presentation: No
Legal Review: Yes
Project Number: N/A

RECOMMENDATION

Staff recommends the City Council approve the second and final reading of the ordinance amending Billings, Montana City Code (BMCC), Article 22-800, Storm Sewers.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

At its meeting on March 11, 2024, the City Council conducted a public hearing and approved the first reading of an ordinance amending Article 22-800 of the Billings Montana City Code, including the following:

- Make the changes necessary to change from billing storm fees as an assessment on the annual property tax statement to billing the fee on the monthly utility bill;
- Revise the title of the Article from "Storm Sewer" to "Storm Sewer System Rates and Charges;"
- Revise the storm rate methodology from using zoning and parcel square footage to be set by Council resolution and in accord with MCA 7-13-4304;
- Revise the collection procedures for delinquent storm fee bills; and
- Delete obsolete language and make minor updates to the verbiage.

One additional change was made by City Council at the meeting and is incorporated in this amended ordinance. This change was to add "pursuant to policies adopted by the city council" at the end of the first sentence in Section 22-802.

ALTERNATIVES

City Council may:

- Approve the amendment to BMCC, Article 22-800 Storm Sewers; or,
- Not approve the amendment. If not approved, storm fees will continue to be assessed on the annual property tax statement.

FISCAL EFFECTS

The City is in the process of converting both its tax/assessment software and its utility billing software. Thus, a software conversion will be required regardless of how the storm fee is billed and there is no additional fiscal effect as a result of this amendment to city code.

Attachments

Ordinance Amendment Clean
Ordinance Amendment Redlined

Ord. 24 - 5872

COUNCIL ACTION	Approved
10-0, Owen Absent/Excused	
MAR 25 2024	
db	
CITY CLERK	

City Council Regular

Date: 03/11/2024
Title: Public Hearing and First Reading Ordinance Amending BMCC, Article 22-800, Storm Sewers
Presented by: Jennifer Duray
Department: Public Works
Presentation: Yes
Legal Review: Yes
Project Number: N/A

RECOMMENDATION

Staff recommends the City Council hold a public hearing and approve first reading of the ordinance amending Billings, Montana City Code (BMCC), Article 22-800, Storm Sewers.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

BMCC, Article 22-800 establishes rate methodology, billing, and collection procedures for storm sewer fees. The primary purpose of the ordinance amendment is to change from billing the storm fee as an assessment on the annual property tax statement to billing the fee on the monthly utility bill. Staff previously discussed the change with the Council Budget and Finance Committee on December 13, 2023, and at a Council work session on January 2, 2024. The majority of Council were in favor of the change to the utility bill, but requested staff engage in more public outreach and gather information regarding any effects on residents' income taxes before coming back to Council for a vote on amending the Ordinance. The presentation will review the benefits of the proposed change, provide staff analysis of income tax effects of the change, and discuss public outreach efforts. Additionally, amendments are proposed to delete obsolete language in BMCC, Article 22-800, as well as minor amendments to the verbiage. Other proposed amendments are:

- Revise the title of the Article,
- Revise the rate methodology from using zoning and parcel square footage to be set by Council resolution and in accord with MCA 7-13-4304, and
- Revise the collection procedures for delinquent storm fee bills.

ALTERNATIVES

City Council may:

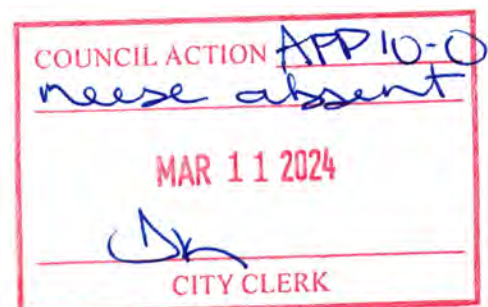
- Approve the amendment to BMCC, Article 22-800 Storm Sewers; or,
- Not approve the amendment. If not approved, storm fees will continue to be assessed on the annual property tax statement.

FISCAL EFFECTS

The City is in the process of converting both its tax/assessment software and its utility billing software. Thus, a software conversion will be required regardless of how the storm fee is billed and there is no additional fiscal effect as a result of this amendment to city code.

Attachments

Ordinance Amendment Redlined
 Ordinance Amendment Clean
 Presentation



ORDINANCE 24-_____

AN ORDINANCE OF THE CITY OF BILLINGS,
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22-800 (STORM SEWERS) BY GENERALLY REVISING
THE TITLE OF THE ARTICLE, RATE METHODOLOGY,
BILLING, AND COLLECTION OF SERVICE CHARGES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. That Article 22-800 of the Billings, Montana City Code (BMCC) is amended so that such section shall read as follows:

Article 22-800. – STORM SEWER SYSTEM RATES AND CHARGES

Sec. 22-801. – ~~Duties of city engineer~~ Costs and purpose.

The purpose of the rates and charges shall be to generate sufficient revenue to pay all costs of establishing, building, reconstructing, or extending the city's storm sewer system, authorized under MCA 7-13-4301, including but not limited to costs of construction, reconstruction, operation, maintenance, administration, depreciation and replacement of stormwater infrastructure, appurtenances, and sewers to dispose of stormwater and divert it from the sewage disposal plant and prevent pollution of sources of water supply, including the principal of and interest on all revenue bonds to be issued for that purpose, as authorized by MCA Title 7 Chapter 7 Part 44, or Title 7 Chapter 13 Part 43, as amended. All proceeds are deemed to be in payment for the use of the city storm sewer system. The city engineer shall have full authority and control over the storm sewer system of the city, subject to the supervisory control of the city administrator and pursuant to policies adopted by the city council.

Sec. 22-802. – ~~Duties of financial services manager~~ Operation cost determination.

The City Administrator or the Public Works Department shall determine the total annual cost of operation and maintenance of the storm sewer system. The total annual cost of operation and maintenance of the storm sewer system shall include, but is not limited to, costs of planning, analysis, labor, personnel, repairs, capital improvements, equipment, equipment replacement, maintenance, modifications, power, permitting, sampling, administration, debt service, and amounts needed to fund reserves. financial services manager shall have full responsibility for billings and collection of all storm sewer accounts in the manner provided in this article, and for the purposes of fulfilling the

obligations imposed on the public works department by Ordinance 3251, the financial services manager shall be deemed agent of the public works department.

Sec. 22-803. -- Duty of the public works department.

— Upon notification by the financial services manager to the public works department of delinquency in any account, the public works department shall discontinue water service, except for water service to fire lines, to the premises involved until payment of all past due bills for water and sewer service and compliance with all applicable rules and regulations. Notice of such payment and such compliance shall be given to the public utilities department by the financial services manager before resumption of water service to the premises. In those instances where a property owner is not carried on tax rolls and is not given a code number or account number by the Yellowstone County Assessor's office and special assessment therefore cannot be levied by the financial services manager, the financial services manager shall mail directly to the property owner in such individual instances a billing for storm sewer charges. In the event of discontinuance or resumption of water service by the public works department as provided in this article, the public works department shall be entitled to be paid for such services at the uniform rate from time to time established for such services.

Sec. 22-8034. -- Rates for storm sewers Monthly service charge.

(a) For the purpose of paying the cost of construction, operation, maintenance, depreciation and replacement of sewers to dispose of stormwater and divert it from the sewage disposal plant and prevent pollution of sources of water supply, including the principal of and interest on all revenue bonds to be issued for that purpose, as authorized by MCA Title 7 Chapter 7 Part 44, or Title 7 Chapter 13 Part 43, as amended, A an annual monthly storm sewer system service charge is imposed and made applicable to all premises within the city limits. The financial services manager shall report to the city council when all revenue bonds issued for the construction of such storm sewers, and bond refunding the same, have been fully paid and redeemed, and the council shall then provide for the reduction of the charge to such amount as will be sufficient to pay the reasonable expense of the operation, maintenance, depreciation and replacement of the sewers. The charge shall be based on the area of the parcel of land and its zone classification. Stormwater service charges shall be included with the monthly utility billing. All charges shall be set assessed to premises within the City upon a methodology and at a rate to be established by Council resolution and in accord with MCA 7-13-4304, and shall be made to the owner of the parcel as the same shall appear according to the code number or account number thereof in the office of the county assessor, Yellowstone County, Montana. The zone classification shall be that which is on the official map on record at the city-county planning board.

~~(b) The financial services manager shall, on or before the last day of October of each year, cause to be mailed by the county treasurer to every owner of a lot or parcel within the city, on the same date and in the same manner as are real property taxes, a separate statement of storm sewer charges setting forth the annual charge to be assessed on the lot or parcel for the storm sewer service thereto. Such charge shall be due and payable on or before 5:00 p.m. on the thirtieth day of November of each year. Upon failure of the owner to pay the charge, the same will be in arrears and delinquent on December 31st of such year, and shall be collected by the financial services manager according to the provision and authority of MCA §§ 7-13-4304, 7-13-4305, 7-13-4306 and 7-13-4309.~~

~~—(c) All storm sewer system service charges shall be collected as provided in this article and credited to a fund to be known as "Tthe Mmunicipal Sstorm Ssewer Ssystem Ffund", which fund shall be at all times segregated and maintained by the city clerk and financial services manager on the books of the city as a separate and special fund. This fund shall be subdivided into the separate accounts provided in Ordinance 3251, and administered as therein provided, except that storm sewer funds shall be segregated and kept separate from sanitary sewer funds. Upon adoption by the city council of a resolution authorizing the issuance of revenue bonds of the city payable from storm sewer charges or otherwise establishing a system of funds and accounts for such charges, all storm sewer charges shall be applied and accounted for in the manner provided in such resolution.~~

Sec. 22-804. – Appeal and adjustment.

(d) Any party who considers the charges applicable to his premises unfair, inequitable or unreasonable may apply to the public works director for adjustment thereof, stating the facts and grounds of complaint, and the public works director may notify the owner of any premises as to which he considers the rates and charges to be inadequate. In either case, the public works director shall cause appropriate investigation and report to be made by himself or his duly authorized representative.

The public works director, or his duly authorized representative, shall consider each and all of such complaints and reports and communicate his findings with respect thereto to the city council. The council shall have the right to order a public hearing as to any such matter and, if convinced that an adjustment of the charges for such premises is necessary to provide reasonable equality with those charged to others, it shall so provide, either by ordinance amendatory hereto, or by resolutions fixing special charges for individual premises during the period of continuance of special circumstances which make the standard charges unfair, inequitable, unreasonable or inadequate.

Sec. 22-805. – Delinquent charges.

Bills for storm sewer system service charges shall become delinquent twenty-five (25) days from the date of billing if not paid. If the bill is not paid within forty (40) days after the billing date, the water service to the customer shall be discontinued after written notice of delinquency is mailed to the customer until the delinquent amount due and owing is paid. The city invokes use of the procedures set forth under MCA 7-13-4309 for collection of the payment due and owing as a tax against the lot or parcel of real property to which stormwater sewer system service was furnished and payment is delinquent and also permits the city to bring suit to collect payment of delinquent charges as a debt owing the city.

Section 2. EFFECTIVE DATE. This ordinance shall be effective on July 1, 2024.

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PASSED by the City Council on first reading the _____ day of _____, 2024.

PASSED, ADOPTED and APPROVED on second reading this _____ day of _____, 2024.

CITY OF BILLINGS

BY: _____
William A. Cole, Mayor

Attest:

BY: _____
Denise R. Bohlman, City Clerk

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shall be included with the monthly utility billing. All charges shall be assessed to premises within the City upon a methodology and at a rate to be established by Council resolution and in accord with MCA 7-13-4304.

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PASSED by the City Council on first reading the _____ day of _____, 2024.

PASSED, ADOPTED and APPROVED on second reading this _____ day of _____, 2024.

CITY OF BILLINGS

BY: _____
William A. Cole, Mayor

Attest:

BY: _____
Denise R. Bohlman, City Clerk

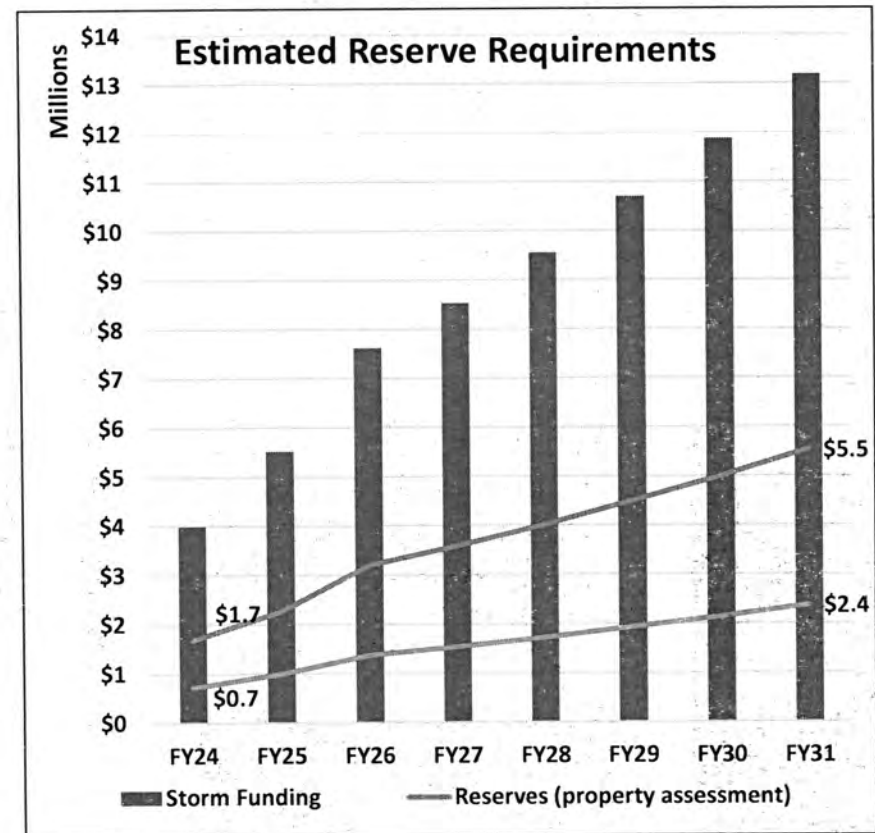


Storm Fee

Proposed Change to Move Fee From Property Taxes to Utility Bill

Pros and Cons

	Charge on Property Tax Statement	Charge on Utility Bill
Increase transparency (see 12x per year instead of 1)		X
Increase billing efficiency		X
Decrease reserve needed from monthly collection of revenue		X
Status quo for property owners	X	
Has no effect on the elderly homeowner/renter credit for Montana income taxes	X	



FAQs About Moving Storm Fee to Utility Bill

How will this change affect renters?

Landlords currently recover all property taxes and assessments in the rent. If a tenant pays the utility bill, the tenant will need to pay the estimated \$5/month fee, but the rent should theoretically decrease. Many landlords pay the utility bills so it would have no effect.

How will it affect disabled veterans and low-income homeowners who qualify for the Property Tax Assistance Program (PTAP)?

It will not affect them at all. The storm fee is an assessment rather than a tax. Further the PTAP essentially reduces taxable value of a home, and the storm assessment is calculated using zoning and square footage rather than taxable value.

How will the change impact deductions on income taxes?

It has no impact. If a property owner believes that they can deduct the storm fee as a property tax, they can still deduct it regardless of where the City bills it.

How will this change affect not-for-profit entities?

It does not impact not-for-profits, These entities pay the storm fee now. Again, it is an assessment, not a tax, and non-profits are only exempt from taxes.

FAQs About Moving Storm Fee to Utility Bill

How will the change affect the Montana Elderly-Homeowner/Renter Credit

Special assessments included on the property tax statement are allowed to be used in the calculation of the credit. The amount of the credit is based on household income, rent and property tax so any effect on elderly homeowners is variable and would affect very few property owners. There is no effect on elderly renters.

discuss public outreach efforts, and

How will this change affect the rates?

This change is completely independent from any rate increase the Council approves.

Will this allow the City to increase the number of mills it can levy?

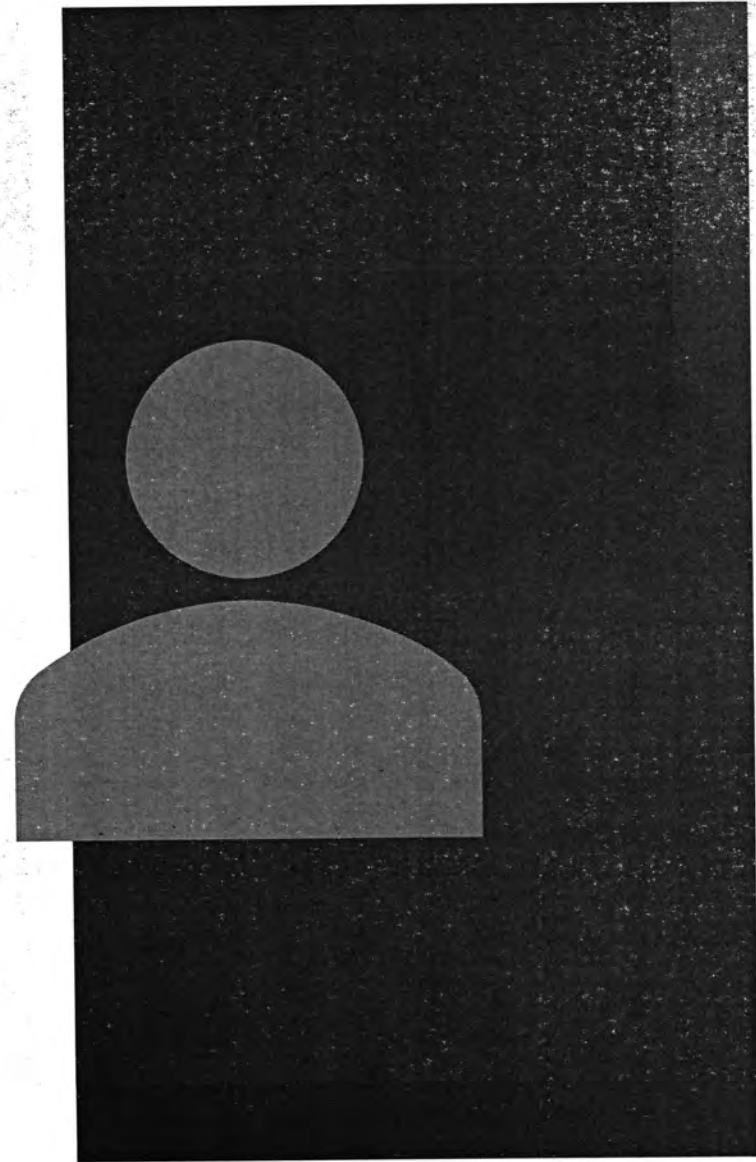
No, the storm assessment is not part of the mill levy. Moving the fee off of the property tax statement has no effect on the mill levy cap.

Why now?

The City is in the process of converting to a new assessment/tax software. Now is the time to decide if we should convert to the new assessment/tax software or to the utility bill.

Public Engagement

- West End Task Force
- South Side Task Force
- Rimrock Task Force
- Heights Task Force
- Realtors Association
- Landlord Association



Ordinance Amendments



Revise title from “Storm Sewer” to “Storm Sewer System Rates and Charges”



Move costs and purposes to beginning of ordinance and revise verbiage



Change the billing from annual assessments on the property tax statement to the utility bill



Revise the rate methodology from zoning and square footage to be set by Council resolution



Revise collection processes for delinquent bills



Sets effective date as July 1, 2024



Excellence
Innovation
Integrity

Thank You

Q & A

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