

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER DOZEMAN
COUNCIL BILL NO. 23
ORDINANCE NO. 1808
Series 2024

TITLE: AN ORDINANCE AMENDING CHAPTER 21 OF THE WHEAT RIDGE CODE OF LAWS CONCERNING WORK IN THE PUBLIC RIGHT-OF WAY AND LICENSING OF MUNICIPAL CONTRACTORS

WHEREAS, the City of Wheat Ridge is a home rule municipality having all powers conferred by Article XX of the Colorado Constitution; and

WHEREAS, pursuant to its home rule authority and C.R.S. § 31-23-101, the City, acting through its City Council (the "Council"), is authorized to adopt ordinances for the protection of the public health, safety, or welfare; and

WHEREAS, in the exercise of this authority the Council has previously adopted regulations and fees for the licensing and registration of contractors within Chapter 21, Article I and Article II, Work in Public Ways within the Municipal Code ("Code"); and

WHEREAS, several provisions within this Chapter contain outdated and incongruous language to standard construction practices; and

WHEREAS, the Council wishes to update and simplify the licensing and permitting framework in the Code.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE, COLORADO:

Section 1. The definition of "specifications" contained in Section 21-1 of the Code is amended as follows:

Specifications means the current edition of the **CITY'S DESIGN AND CONSTRUCTION STANDARDS AND SPECIFICATIONS** ~~"standard specifications for road and bridge construction"~~ and the **CURRENT EDITION OF THE SPECIFICATIONS AND M & S** ~~m-and-s~~ standards of the Colorado Department of Transportation, ~~Division of Highways,~~ as may be amended by the City of Wheat Ridge.

Section 2. Section 21-11 of the Code is amended as follows to add a subsection clarifying developer responsibilities related to public infrastructure:

Sec. 21-11. Permit required.

(a)...

(f) **DEVELOPER OWNERSHIP OF PUBLIC INFRASTRUCTURE. THE PHYSICAL CONSTRUCTION OF PUBLIC INFRASTRUCTURE IN NEW**

DEVELOPMENTS WITHIN THE CITY IS THE RESPONSIBILITY OF THE DEVELOPER OF THE LAND. OWNERSHIP OF SUCH INFRASTRUCTURE REMAINS WITH THE DEVELOPER UNTIL ACCEPTANCE BY THE CITY. WORK UNDERTAKEN ON INFRASTRUCTURE WITHIN A PUBLIC RIGHT-OF-WAY SHALL REQUIRE A PERMIT. THE CITY WILL NOT ACCEPT PUBLIC INFRASTRUCTURE IMPROVEMENTS WHERE WORK PERFORMED IS NOT IN ACCORDANCE WITH APPLICABLE CITY STANDARDS AND SPECIFICATIONS AND APPLICABLE PROVISIONS OF THIS CHAPTER.

Section 3. Section 21-15 of the Code, formerly reserved, is adopted as follows to add a section addressing public and worker safety:

Sec. 21-15. PUBLIC AND WORKER SAFETY.

(a) EACH PERMITTEE SHALL CONSTRUCT, MAINTAIN, AND OPERATE ITS FACILITIES IN A MANNER THAT PROVIDES PROTECTION AGAINST INJURY OR DAMAGE TO PERSONS OR PROPERTY.

(b) PERMITTEES SHALL MAINTAIN A SAFE WORK AREA. FREE OF SAFETY HAZARDS. THE CITY MAY MAKE ANY REPAIR NECESSARY TO ELIMINATE ANY SAFETY HAZARDS NOT ADEQUATELY ADDRESSED BY THE PERMITTEE AS DIRECTED. ANY SUCH WORK PERFORMED BY THE CITY SHALL BE COMPLETED AND BILLED TO THE PERMITTEE. THE PERMITTEE SHALL PAY ALL SUCH CHARGES WITHIN THIRTY (30) DAYS OF THE INVOICE DATE. IF THE PERMITTEE FAILS TO PAY SUCH CHARGES WITHIN THE PRESCRIBED TIME PERIOD, THE CITY MAY, SEEK REIMBURSEMENT THROUGH THE WARRANTY OR GUARANTEE POSTED AS A PART OF THE PROJECT, OR THROUGH THE PROCEDURE CONTAINED IN CODE SECTION 2-6 AND ADDITIONALLY MAY BAR THE PERMITTEE FROM PERFORMING ANY ADDITIONAL WORK IN THE PUBLIC RIGHT-OF-WAY.

Secs. ~~21-16 21-15~~—21-19. - Reserved

Section 4. Section 21-20 (c) of the Code is amended as follows to refine the penalty for work without a valid permit:

Sec. 21-20. Fees generally; bonds, etc.; other provisions relative to permits.

(a)...

(c) *Violation; penalty; replacement at permittee's cost.* Unless otherwise provided for in this article, work in the public way without a valid permit when the applicant is operating without such permit is a violation of the code of laws. The violator shall be required to obtain the required permit for the work. Unless otherwise limited by law, the minimum administrative penalty assessed shall be **IN ACCORDANCE WITH THE CITY'S FEE SCHEDULE, AS ADOPTED AND AMENDED FROM TIME TO TIME BY CITY COUNCIL RESOLUTION** ~~either two hundred twenty-~~

~~five dollars (\$225.00) or triple the permit and inspection fees, whichever is greater, plus any additional costs incurred for special testing of the completed work. If, in the opinion of the director, the completed work cannot be adequately tested or was placed not in accordance with the approved plans and specifications, it shall be removed and replaced at the permittee's sole cost.~~

Section 5. Section 21-21 of the Code, regarding licenses and fees, is amended as follows:

Sec. 21-21. Licenses and fees.

- (a) The department of public works shall determine license qualifications for class A **AND CLASS B-D** ~~through class G~~ licenses.
- (b) The **TWO** ~~various~~ classes of licenses issued under this article and the work authorized to be performed by the holder of the license are as follows:

- (1) **EXCAVATION** ~~Municipal contractor~~-Class A. A license to do **EXCAVATION** work as a municipal contractor, class A, shall be required for **STREET, ALLEY, AND OTHER ROADWAY-RELATED CONSTRUCTION IN THE PUBLIC WAY, INCLUSIVE OF** ~~the installation of the following in the public way:~~

- a. EXCAVATION, GRADING, LEVELING OF SUBGRADE.
 - b. **COMPACTION, ROLLING, GRAVELING, ASPHALTING, PAVING, CURBING, DRAINING, POTHOLING, BORING, TRENCHING, BACKFILLING, AND DRILLING.**
 - c. **INSTALLATION OF WATER MAINS, SANITARY SEWER MAINS, STORM WATER MAINS, WATER AND SANITARY SEWER SERVICE LINES, STORM DRAINS, AND ALL RELATED STRUCTURES.**
 - d. **CONSTRUCTION OF CURB, GUTTER, CURB & GUTTER, SIDEWALKS, MEDIANS, STREETS, ALLEYWAYS, OR ANY OTHER INFRASTRUCTURE.**
 - e. **INSTALLATION OF FIBER OPTIC, CABLING, CONDUIT, ELECTRICAL, NATURAL GAS, OR ANY OTHER UTILITY INFRASTRUCTURE.**
- ~~a. Water mains.~~
~~b. Sewer mains.~~
~~c. Water and sewer service lines.~~
~~d. Storm drains.~~
~~e. Related structures.~~

- (2) ~~Same~~ ~~Class B~~. A license to do work as a municipal contractor, class B, shall ~~be required for street, alley, and other roadway-related construction in the public way, inclusive of:~~

- ~~a. Excavation, grading, leveling of sub-grade.~~
- ~~b. Compaction, rolling, graveling, asphaltting, paving, curbing, draining, potholing and drilling.~~
- ~~c. Construction of curb, gutter, sidewalks, medians and other concrete structures or installations.~~

d. ~~Construction of traffic signal installations.~~

(3) ~~Same Class C.~~ A license to do work as a municipal contractor, class C, shall be issued for, and limited to, the installation of water and sewer service lines including excavation, pipe placement, backfilling and other operations as necessary in the public way.

(42) **RIGHT-OF-WAY OCCUPATION** ~~Traffic control and streetlights only~~ Class **B-D** D. A license to **OCCUPY THE PUBLIC WAY**, class D, shall be required for **ANY WORK OCCURRING** ~~non-roadway-related construction~~ in the public way, inclusive of:

- a. Traffic control.
- b. Installation of street and/or pedestrian lights. A separate electrical permit shall be required from the building division.
- c. Tree trimming and/or cutting on private or public property.
- d. Staging **OR STORAGE** of materials, **EQUIPMENT, STORAGE CONTAINERS**, and/or trash receptacles, ~~except for private household use.~~
- e. **INSTALLATION OF ANY PERMANENT PUBLIC OR PRIVATELY-OWNED INFRASTRUCTURE.**

(53) ~~Same~~—License limitations. The director of public works shall review applications for **CLASS A and CLASS B-D** ~~municipal contractors'~~ licenses and shall indicate those contractors, which the applicant has shown ~~he~~ THEY is ARE qualified to perform. Upon completion of review, the director of public works shall then cause to be issued a license limited as indicated.

(c) ~~Holders of certain of the licenses may perform as if licensed for certain of the other functions in accordance with the following schedule:~~

Class A	Class C
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(cd) The annual license fees for contractor's license under the provisions of this article shall be paid in accordance with the **CITY'S FEE SCHEDULE AS ADOPTED AND AMENDED FROM TIME TO TIME BY CITY COUNCIL.** ~~following table:~~

(1) Municipal contractor, class A	\$200.00
(2) Municipal contractor, class B	\$150.00
(3) Municipal contractor, class C	\$125.00
(4) Municipal contractor, class D	\$50.00

License fees are due with the license application and are nonrefundable. Non-issuance of licenses shall not entitle applicant to a refund of fees paid.

(de) Insurance and indemnification. Unless otherwise specified in a franchise agreement between the permittee and the city, prior to the granting of any permit, the permittee

shall file with the city an insurance policy or certificate in a form satisfactory to the city/~~town/county~~ with coverage as follows:

- (1) The permittee shall carry and maintain in full effect at all times a commercial general liability policy, including broad form property damage, completed operations contractual liability, explosion hazard, collapse hazard, underground property damage hazard, commonly known as XCU, for limits, **AS ESTABLISHED BY THE DIRECTOR, FOR** ~~not less than two million dollars (\$2,000,000.00)~~ each occurrence for damages of bodily injury or death to one (1) or more persons; and ~~one million dollars (\$1,000,000.00)~~ each occurrence for damage to or destruction of property.
 - (2) **THE PERMITTEE SHALL CARRY AND MAINTAIN IN FULL EFFECT AT ALL TIMES A POLICY OF COMPREHENSIVE AUTOMOBILE LIABILITY INSURANCE INSURING AGAINST ANY LIABILITY FOR PERSONAL INJURY, BODILY INJURY, OR DEATH ARISING OUT OF THE USE OF MOTOR VEHICLES AND COVERING OPERATIONS ON OR OFF THE SITE OF ALL MOTOR VEHICLES CONTROLLED BY THE PERMITTEE USED IN CONNECTION WITH PERFORMANCE OF THE WORK, WHETHER THE MOTOR VEHICLES ARE OWNED, NON-OWNED, OR HIRED, WITH A COMBINED SINGLE LIMIT OF AT LEAST ONE MILLION DOLLARS (\$1,000,000.00).**
 - (32) Workers compensation insurance as required by state law.
 - (43) City departments shall be relieved of the obligation of submitting a certificate of insurance.
 - (54) Notwithstanding the foregoing, the director may waive any insurance requirement or other requirements addressing financial security for (i) a governmental entity, or (ii) other entity if such other entity is deemed to provide sufficient coverage through self-insurance, in his or her sole reasonable discretion.
- (ef) License and permit bond. A cash bond ~~in the amount of ten thousand dollars (\$10,000.00)~~ shall be deposited with the city prior to issuance of any class A, B or C ~~municipal contractor~~ licenses. **THE BOND AMOUNT SHALL BE SET ANNUALLY BY THE DIRECTOR.** The bond shall be held by the city to insure completion of any work permitted ~~to the municipal contractor~~ and to warrant any work performed under a license for a period of two (2) years. An insurance company performance and warranty bond acceptable to the director of public works may be substituted for the required cash bond.

Section 6. Section 21-22 (a) and (b) of the Code, regarding permit suspensions or revocation is amended to read as follows:

Sec. 21-22. Authority; procedure; emergency suspension.

- (a) *Authority.* The director of public works may suspend or revoke class A **AND CLASS D through C** licenses. License suspension or revocation may occur when the licensee commits one (1) or more of the following acts or omissions:

- (1) Failing to comply with any of the licensee responsibilities as outlined in this chapter.
 - (2) Knowingly combining or conspiring with a person by permitting one's license to be used by such person, firm or corporation.
 - (3) Acting as agent, partner, associate or in any other capacity with persons, firms or corporations to evade the provisions of this chapter.
 - (4) Committing any act of negligence, incompetence, or misconduct in the performance of the contractor's specific trade which results in a substantial threat to public health and safety.
 - (5) Performing under his/her license in an unworkmanlike, careless, or reckless manner.
- (b) *Procedure.* When any of the acts or commissions as herein enumerated are committed by a license holder and the director of public works deems that such license shall be suspended or revoked, the procedure shall be as follows:
- (1) The licensee shall be notified, in writing, by **CERTIFIED MAIL** or by personal service, at least seven (7) days prior to suspension or revocation.
 - (2) Appeals of a license suspension or termination shall be made to the director of public works. Appeals must be made in writing within seven (7) working days of receipt of notice.
 - (3) The hearing date shall be set within fourteen (14) days of receipt of the protest and the licensee shall be notified of the same.
 - (4) When a hearing is conducted, the licensee and other interested parties may be in attendance. Upon completion of the hearing, the director of public works shall take all evidence admitted under advisement and shall notify the licensee of their findings and rulings either during the meeting or in writing by certified mail.
 - (5) Hearings shall be administrative and informal. Although an interested party may be represented by an attorney, no formal rules of evidence shall be observed. No cross-examination of witnesses will be permitted. Evidence and witnesses will be received; however, the hearing officer has the right to exclude evidence which is repetitive and/or irrelevant. The hearing officer may permit concluding and/or rebuttal statements. The decision of the hearing officer shall be the final action of the city for purposes of any appeal.

Section 7. Section 21-51 of the Code, regarding utility company proof of insurance and bond is amended to read as follows:

Sec. 21-51. Liability for injuries, damage.

To the extent authorized and permitted by law, the utility district or company shall be responsible for liability for injury to persons or damage to property resulting from installation of its underground structures or from the repair or failure to repair street surfaces as herein provided. If the utility company or district is conducting the work with their own forces, they shall submit proof of insurance and bond as required in section **21-21 5-425** of the Wheat Ridge Code of Laws.

Section 8. Section 21-53 of the Code, regarding inspections is amended to add a new subsection (d) as follows:

(a)...

- (d) **WARRANTY INSPECTION. APPROXIMATELY THIRTY (30) DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR WARRANTY, THE CITY SHALL CONDUCT A FINAL INSPECTION OF THE COMPLETED WORK. IF THE WORK IS SATISFACTORY, THE BOND OR LETTER OF CREDIT SHALL BE RETURNED OR ALLOWED TO EXPIRE, LESS ANY AMOUNTS NEEDED TO COMPLETE WORK NOT COMPLETED BY THE PERMITTEE, AND THE CITY SHALL PROVIDE TO THE PERMITTEE A LETTER OF FINAL ACCEPTANCE. FOR WORK NOT INVOLVING MATERIAL DISTURBANCE IN THE RIGHTS-OF-WAY, THE DIRECTOR MAY WAIVE THE FINAL INSPECTION AND THE PERFORMANCE BOND/LETTER OF CREDIT.**

Section 9. Section 21-60 (1), (6), (7), (10), (11), (12), and (13) of the Code, regarding traffic control requirements is amended as follows:

Sec. 21-60. Traffic control and access.

To avoid interference with traffic, the following conditions must be observed in working in the public way:

- (1) All work in the public ways must have a traffic control plan, **WHICH** shall be submitted to the city prior to starting construction. No permit will be issued until the plan is approved by the director. The traffic control plan must **BE IN CONFORMANCE WITH THE LATEST VERSION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD) AS AMENDED BY THE COLORADO DEPARTMENT OF TRANSPORTATION.** ~~provide safe methods for movement of pedestrians and motorists through the work zone and a safe area for workers engaged in the construction activity.~~ The traffic control plan shall be site specific unless otherwise allowed by the director. The traffic control plan shall include the name and emergency phone numbers of the permittee and the permittee's designated traffic control supervisor.

...

- (6) ~~As a guide for all maintenance and traffic signing, Part VI of the "manual on uniform traffic control devices" and the CDOT standards shall be used.~~ The permittee shall illustrate on the permit the warning and traffic control devices proposed for use during construction. At the discretion of the director, such warning and control devices may be increased, decreased or modified before and after issuance of the permit.
- (7) **APPROPRIATE DEVICES** ~~Type I, II and III barricades~~ must be used whenever it is necessary to close a travel lane, ~~or sidewalk,~~ **OR BIKE LANE. DEVICES** ~~Barricades~~ are to be supplied by the permittee. **THE PERMITTEE SHALL**

MAINTAIN ALL DEVICES AT ALL TIMES. ~~All work shall be barricaded at all times and between the hours of sunset and sunrise and shall be properly lighted and delineated so as to warn all persons.~~ Maintenance and construction signing. The permittee shall be responsible for maintaining all work area signing and barricading during construction operations as well as any signs and barricades that are needed to protect roadway users and pedestrians during nonwork hours. During nonwork hours, all construction work area signs that are not appropriate shall be removed, covered or turned around so that they do not face traffic.

...

- (10) No permittee shall interrupt access to and from private property, block emergency vehicles, block access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital equipment unless the permittee provides the city with written verification of written notice delivered to the owner or occupant of the facility, equipment or property at least 48 hours in advance. If a street closing is desired, the applicant will request ~~the assistance~~ and obtain the approval of the director **AT LEAST 72 HOURS IN ADVANCE OF THE REQUESTED CLOSURE.** It shall be the responsibility of the permittee to notify and coordinate all work in the public way with police, fire, ambulance, other government entities, and transit organizations.
- ~~(11) When necessary for public safety, the permittee shall employ flag persons whose duties shall be to control traffic around or through the construction site. The use of flag persons may be required by the director.~~
- ~~(12) Traffic control devices, as defined in part vi of the manual on uniform traffic control devices, must be used whenever it is necessary to close a traffic lane or sidewalk. Traffic control devices are to be supplied by the permittee. If used at night, they must be reflectorized and must be illuminated or have barricade warning lights.~~
- ~~(1143)~~ Nighttime work area flood lighting shall not be allowed to spill out of the construction area in such a way as to disturb, annoy, or endanger the comfort, health or peace of others.

Section 10. Section 21-60.1 of the Code, regarding excavations, backfilling, and compacting is amended to read as follows:

Sec. 21-60.1. Excavations, backfilling and compacting.

The director has the authority to promulgate all necessary rules and regulations governing or otherwise related to the materials **AND PLACEMENT, INSTALLATION, AND TESTING METHODS**, to be used in excavation, backfilling, compacting and any other reclamation projects in the public rights-of-way, to protect the health, safety and welfare of the city inhabitants. All work performed under this chapter shall conform with any such rules and regulations.

- (a) **PERMITTEE RESPONSIBILITY.** THE PERMITTEE SHALL BE FULLY RESPONSIBLE FOR THE COST AND ACTUAL PERFORMANCE OF ALL WORK IN THE PUBLIC RIGHT-OF-WAY. THE PERMITTEE SHALL DO ALL WORK IN CONFORMANCE WITH ALL ENGINEERING REGULATIONS, CONSTRUCTION SPECIFICATIONS, AND DESIGN STANDARDS ESTABLISHED BY THE DEPARTMENT. THESE STANDARDS AND SPECIFICATIONS SHALL APPLY TO ALL WORK IN THE PUBLIC RIGHT-OF-WAY UNLESS OTHERWISE INDICATED IN THE PERMIT.
- (b) **RESTORATION.** ALL RESTORATION SHALL RESULT IN A WORK SITE CONDITION EQUAL TO OR BETTER THAN THAT WHICH EXISTED PRIOR TO CONSTRUCTION. IN ADDITION TO THE REGULATIONS, SPECIFICATIONS, AND STANDARDS, REFERRED TO IN SUBSECTION (a) OF THIS SECTION 21-60.1, THE FOLLOWING PROVISIONS SHALL APPLY TO WORK IN PUBLIC RIGHTS-OF-WAY.
- (1) PAVEMENT CUTS SHALL BE FILLED WITH COMPACTED, SELECT MATERIAL. SELECT MATERIAL SHALL INCLUDE SELECT FILL, CONTROLLED DENSITY {"FLOWABLE"} FILL, OR EXISTING MATERIAL, AS APPROVED BY THE DIRECTOR.
 - (2) SELECT FILL SHALL BE PLACED IN AN EXCAVATION TO THE DENSITY REQUIRED BY CITY SPECIFICATIONS.
 - (3) FLOWABLE FILL BACKFILL MATERIAL, SATISFYING CITY SPECIFICATIONS, MAY BE USED TO RESTORE EXCAVATIONS IN THE PAVED PORTION OF ANY PUBLIC STREET OR ALLEYWAY. STEEL PLATES SHALL BE PLACED TO COVER THE EXCAVATION FOR THE TIME REQUIRED TO ALLOW THE MATERIAL TO SET.
 - (4) FOR EXCAVATIONS IN EXCESS OF FIVE (5) FEET IN DEPTH, THE PERMITTEE MAY USE GRANULAR BACKFILL MATERIAL IN LIEU OF FLOWABLE FILL BACKFILL MATERIAL, PROVIDED THAT IT MEETS CITY SPECIFICATIONS FOR MATERIAL TYPE, GRADATION, PLACEMENT, COMPACTION, AND TESTING.
 - (5) ONCE THE COMPACTED BACKFILL HAS BEEN PLACED, AS ASPHALT CUTBACK SHALL BE MADE. THE CUTBACK SHALL EXTEND A MINIMUM OF SIX (6) INCHES ON EACH SIDE OF THE EXCAVATION AND SHALL BE OVER UNDISTURBED PAVEMENT MATERIAL. ALL EDGES OF THE CUTBACK SHALL BE NEATLY CUT WITH AN ASPHALT SAW AT NINETY (90) DEGREES TO TRAFFIC AND UNIFORMLY TACKED PRIOR TO NEW ASPHALT PLACEMENT.
 - (6) THE NEW ASPHALT PLACEMENT SHALL BE PLACED AS DETAILED IN THE CITY SPECIFICATIONS AND DESIGN STANDARDS.
 - (7) EXCAVATIONS IN CONCRETE PAVEMENT SHALL MEET ALL REQUIREMENTS IN THE CITY SPECIFICATIONS AND STANDARDS. IN NO CASE SHALL ASPHALT BE USED TO REPAIR EXCAVATIONS IN CONCRETE PAVEMENT.

Section 11. Severability, Conflicting Ordinances Repealed. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 12. Effective Date. This Ordinance shall take effect on January 1, 2025.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 8 to 0 on this 25th day of November 2024, ordered published by title and in full on the City's website as provided by the Home Rule Charter, Public Hearing and consideration on final passage set for December 9, 2024, at 6:30 p.m., as a virtual meeting and in the Council Chambers, 7500 West 29th Avenue.

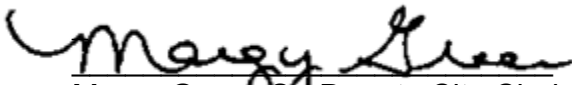
READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 8 to 0, this 9th day of December 2024.

SIGNED by the Mayor on this 11th day of December 2024.



Bud Starker, Mayor

ATTEST:


Margy Greer, Sr. Deputy City Clerk

Approved as to Form



Gerald E. Dahl, City Attorney

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