

Appendix N

Key Documents from Council File 17-0226

MOTION

PLANNING & LAND USE MANAGEMENT

Unpermitted remodels, additions and demolition of buildings negatively impact neighborhoods. These activities create hazards, inconveniences and harm a neighborhood's character. The consequences for doing unpermitted construction work, however, should be evaluated by the City to determine if sufficient deterrents are in place to stop or limit this practice.

Upon learning of unpermitted remodeling, additions and demolitions, the Los Angeles Department of Building and Safety issues an "Order to Comply". The "Order to Comply" details the date of inspection, the violation(s) found and what action needs to be taken to bring the building into compliance. The Order to Comply also provides information regarding the monetary penalties associated with the violation(s).

The monetary penalties for violation(s) are not a sufficient economic deterrent in stopping unpermitted activities. Many seem to regard the penalties for violations as a cost of doing business and proceed forward knowing they are in violation of building codes. It is likely that the time and money saved by performing unpermitted work eclipse the monetary value of the penalties. This practice needs to stop.

Currently the Department of Building and Safety is already preparing a report back that highlights the difference between "remodel" and "demolition," Council File No. 17-0226. The report back, however, doesn't address penalties.

I THEREFORE MOVE that the Council instruct the Department of Building and Safety, in consultation with the City Attorney and City Administrative Officer, to prepare a report relative to monetary penalties that can be imposed for unpermitted remodels; additions; and demolitions of buildings, and that details the following:

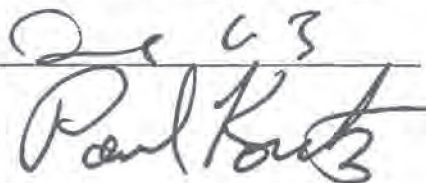
- (1) existing penalties for violations of the various building codes;
- (2) what limits, if any, those penalties could be increased to;
- (3) the feasibility of additional penalties to those with chronic violations of the same building code; and
- (4) what, if any, could be alternative non-monetary penalties (e.g. permits not provided for the replacement project for a specific period of time or a delay in the issuance of a Certificate of Occupancy) be imposed by the City.

PRESENTED BY:



MITCH O'FARRELL
Councilmember, 13th District

SECONDED BY:



MAY 07 2019



ORIGINAL

MOTION

On January 16, 2020, the Cultural Heritage Commission transmitted a letter (Weinberg Residence) to the Department of Building and Safety regarding preemptive partial demolition of the Weinberg Residence. The letter requests assistance in preventing unpermitted alterations and demolitions that could negatively impact identified and eligible historic resources as well as structures under consideration for historic cultural monument status.

The letter requests that the Department and Safety to "do everything in its power and duty to enforce provisions of the Cultural Heritage Ordinance to prevent preemptive demolition of properties under consideration for historic designation from occurring again in the future."

The Cultural Heritage Commission further requested that the Department of Building and Safety work with the Department of City Planning, Office of Historic Resources, and the City Attorney to develop new penalties for unpermitted demolition or alteration of historic resources to sufficiently deter property owners from considering such actions. The Department of Building and Safety, in consultation with the City Attorney and CAO were instructed by the Council to report on this issue by the adoption on July 31, 2019 of a Motion (O'Farrell-Ryu-Koretz), Council File17-0226-S1).

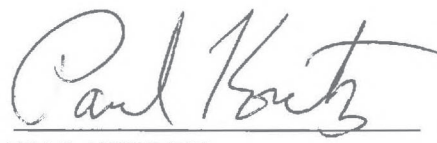
Unpermitted remodels, additions and demolitions of any structure can have a wide range of negative impacts to the health and welfare of the residents, the public at large and to historic structures and those being considered for Historic Monument Status.

I THEREFORE MOVE that Department of Building and Safety be instructed to report in 30 days with a copy of its response to the Cultural Heritage Commission letter dated January 16, 2020 and the concerns raised relative to code enforcement and preemptive partial demolition of properties under consideration for historic-cultural designation; and report on the penalties that are currently imposed for unpermitted remodels, additions and demolitions of historic and non-historic structures; and provide an explanation of the current permitting requirements and processes for abatement of hazardous materials historic and non-historic structures demolition.

PRESENTED BY:



MITCH O'FARRELL
Councilmember, 13th District



PAUL KORETZ
Councilmember, 5th District

ORIGINAL

SECONDED BY:

FEB 04 2020

CITY OF LOS ANGELES

CALIFORNIA



ERIC GARCETTI
MAYOR

BOARD OF
BUILDING AND SAFETY
COMMISSIONERS

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VAN AMBATIELOS
PRESIDENT

JAVIER NUNEZ
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JOSELYN GEAGA-ROSENTHAL
GEORGE HOVAGUIMIAN
ELVIN W. MOON

DEPARTMENT OF
BUILDING AND SAFETY
201 NORTH FIGUEROA STREET
LOS ANGELES, CA 90012

—
OSAMA YOUNAN, P.E.
GENERAL MANAGER
SUPERINTENDENT OF BUILDING

November 9, 2020

CF 17-0226-S1

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, CA 90012

Re: Report on Penalties Imposed for Unpermitted Remodels, Additions, and Demolition of Buildings and Structures, CF 17-0226-S1

Dear Honorable Members,

The Los Angeles Department of Building and Safety (LADBS) was instructed to report back to the Planning and Land Use Management (PLUM) Committee on penalties that can be imposed for unpermitted remodels, additions, and demolition of buildings. Since the Council's vote on this motion, LADBS received inquiries about limiting the scope of the motion to focus on designated historic buildings and historic resources identified in SurveyLA, the Citywide Los Angeles Historic Resources Survey. Given that the grave consequences for unpermitted remodels, additions, and demolition to historic structures, this report addresses the potential for addressing this issue.

I. EXISTING PENALTIES FOR BUILDING CODE VIOLATIONS

The Los Angeles Municipal Code (LAMC), specifically Chapter 9, contains building code provisions that are enforced by LADBS and also authorizes LADBS to assess various fees for building code violations. These fees are not considered penalties,

as the current fee rates are set to recover the cost of providing code enforcement services. The current building code provisions do not include penalties assessed on unapproved construction violations. LADBS assesses the following building code violation fees at cost-recovery levels:

A. Building Code Violation Fees

1. Code Violation Inspection Fee

LAMC Section 98.0421 gives authority to impose a fee of \$356.16 when an Order to Comply is issued. Late penalties may be assessed.

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4. Modification Fee

LAMC Section 98.0403.1 gives authority to collect a fee if the owner cannot correct a violation within the compliance period and needs additional time.

Although the fees listed above may have a punitive effect, the amounts are based on the cost to provide those services. The LAMC includes a provision (LAMC Section 11.00 (m)) whereby the City Attorney may pursue a fine of \$1,000 or up to six months in jail through prosecution in the Los Angeles County Court system for any municipal code violation, including violation of building codes.

B. LAMC Violation Penalties

1. Misdemeanor Fine

LAMC Section 11.00 (m) states that violation of LAMC is punishable as a misdemeanor with a fine of \$1,000 or six month County Jail imprisonment, or both.

2. Reimbursement of LAMC 11.00 (m) Investigation and/or Enforcement Costs

LAMC Section 91.8102.3 states that violators of LAMC Section 11.00 (m) may be required to reimburse LADBS for costs expended to investigate and/or enforce the provisions of LAMC.

3. LAMC Section 11.2.04 authorizes the use of Administrative Citations as an alternative to criminal, civil and any other legal enforcement remedies provided in the Municipal Code. The recipient of an Administrative Citation is required to pay an Administrative Fine which shall be ascertained by the Enforcement Officer in accordance with the Administrative Fine Schedule set forth in the Code. The fine amounts vary depending on the number of previous citations issued and the character and size of the area impacted by the violation.

II. FEASIBILITY OF INCREASING EXISTING PENALTIES FOR BUILDING CODE VIOLATIONS

As detailed in Section I above, LADBS currently charges non-compliance and code violation inspection fees, which are for the recovery of costs and are not considered monetary penalties. Per California Constitution Article 13D, Subsection 6 and California Government Code Section 66014, the City of Los Angeles must justify any new or increased fees with a fee study and public hearing. The City may recommend increasing the \$1,000 civil penalty imposed by Section 11.00 (m) for LAMC violations, or increase the Administrative Fine Schedule provided in LAMC Section 11.2.04, subject to City Attorney review and approval.

III. FEASIBILITY OF ADDITIONAL PENALTIES FOR CHRONIC VIOLATIONS OF THE SAME BUILDING CODE

The Municipal Code offers limited penalty authority to address chronic repeat violators performing construction or demolition in violation of the Building Code. California Government Code Section 53069.4 gives authority to local agencies to make any violation of any ordinance subject to an administrative penalty if there are administrative procedures to govern the enforcement and review of those

penalties. A number of other jurisdictions have utilized similar State authority to legislate for penalties to combat unpermitted construction or demolition, especially when such unpermitted construction causes irreparable damage to irreplaceable historic resources. The following jurisdictions have served as examples of the imposition of penalties that may be considered.

A. Civil Penalties Tied to Building Value

1. Fines Tied to Fair Market Value

The City of San Antonio levies a fine for unpermitted demolition in the amount of 90 percent of the fair market value of the cost of replacement or repair of such building, object or structure. The fines collected are to be used for the benefit, rehabilitation or acquisition of local historic resources. The City of New York Landmarks Preservation Law imposes a civil penalty for unpermitted demolition in the amount of up to the fair market value of the improvement parcel, with or without the improvement.

2. Fines Tied to Appraised or Replacement Value

The City of Palo Alto imposes a civil penalty that is equivalent to the replacement value of the building, but not to exceed \$10,000. The City of Ventura assesses a fine equivalent to the greater of a) the appraised value of the building before demolition minus the appraised value after demolition, or b) \$10,000. The City of Pleasanton proposed an ordinance that allows for a fine to be imposed based on the appraised value of the building before demolition or the replacement value of the demolished building.

B. General Penalties or Fines

The City of San Francisco issues administrative citations at \$100.00 per day as well as civil penalties of \$200.00 per day for ongoing violation. The City of Berkeley's Landmark Preservation provisions include misdemeanor fines of \$100.00 for first violation, \$200.00 for second violation, and \$500.00 for third violation. The City of Oakland's fine for illegal demolition is \$5,000 per living unit.

C. Demolition by Neglect Enforcement and Penalties

Demolition by Neglect can be defined as willful property neglect that then leads to demolition. The City of San Antonio considers demolition by neglect as a civil offense and imposes penalties of \$1,000 per day.

IV. FEASIBILITY OF NON-MONETARY PENALTIES

The LAMC provides authority to take action against unpermitted remodels, additions, and demolition of buildings that are not fines or penalties. The City can currently take the following actions per the LAMC.

A. Non-Monetary Penalties per LAMC

1. Five-Year Moratorium

The City currently has the ability to place a five-year moratorium on issuing permits for sites where demolition or relocation work has been done without permits, per LAMC Section 91.106.4.1(10). LADBS has implemented this LAMC section in the past, albeit infrequently and primarily in situations involving the unpermitted demolition or alteration of historically significant buildings. Although the City views such moratorium on permit issuance as a deterrent to conducting unpermitted construction work, there are other “costs” that need to be considered and carefully weighed before imposing such a moratorium on a property. During this five-year period, neighboring properties are negatively impacted by the vacant land or partially demolished building existing in a non-productive state which causes blight and enables various nuisance conditions caused by squatters or other unauthorized trespassers. In addition, in some cases the moratorium may not serve as the intended deterrent, as some building owners could consider the five-year moratorium as a routine “cost of doing business”.

B. Other Non-Monetary Penalties

1. Civil Action

The City may be able to bring civil action against a person who is a chronic violator of building codes pursuant to California Business & Professions Code Section 17200, among other statutes. Additionally, the City may utilize receivership, through the judicial process, to request a Court to appoint a responsible party to take charge of a neglected property and bring it into

compliance with code standards. Finally, the City can pursue injunctive relief in certain instances.

2. Other Jurisdictions

Below are summaries of actions that other jurisdictions have implemented for unpermitted demolitions or alterations of historical resources.

a) Additional Property Maintenance Requirements

The City of Redlands Demolition Ordinance contain provisions that specify that any property that remains undeveloped shall be maintained in such a manner so as to not constitute a public and private nuisance. The City of Glendale Demolition Deterrence Ordinance also contains affirmative maintenance of lot provisions.

b) In-Kind Restoration or Replacement

The City of Glendale requires in-kind reconstruction of destroyed or deteriorated features of a building that is illegally demolished or demolished through demolition by neglect. The City of Alameda also requires the restoration of prior appearance of a building, if possible. The City of Redlands Demolition Ordinance states that missing features of a demolished historic resource needs to be reconstructed and/or replaced in kind to match the original in terms of size, proportions, design, details, materials, and overall appearance.

c) Receivership for “Demolition by Neglect” Buildings

Receivership or Conservatorship is defined as allowing citizens and organizations, as well as local governments, to take constructive action in order to deal with serious cases of property neglect. The State of Pennsylvania has laws where a party may ask the court to appoint a responsible party to take charge of a neglected property and bring it into compliance with code standards. The State of California Health and Safety Code (HSC Section 17980.7) also contains provisions where the court may order the appointment of a receiver to take control of a substandard property and correct conditions cited in the notice of violation.

d) Restrictions on Future Development

The City of Glendale requires new structures to maintain the footprint, height, and square footage of demolished structures. The City of Pleasanton's proposed ordinance states that new or replacement development needs to be no larger than the demolished historic building by square footage, floor area ratio, height, and location and have this development restriction in place for twenty (20) years.

e) Building Moratorium

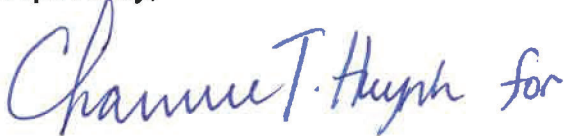
The Cities of Alameda and Ventura prohibit the issuance of building permits for five (5) years for illegal demolition or alteration of historic buildings, while the City of Glendale prohibits the issuance of new construction permits for three (3) years from the date of demolition.

CONCLUSION

This report presented recommendations that can discourage and penalize unpermitted building demolition or alteration. These proposals, if implemented, serve to further protect neighborhoods from activities that are hazardous or create a nuisance; the disincentives and penalties outlined in this report aim to deter, limit, and stop such activities. By doing so, the City of Los Angeles can preserve community resources and minimize harmful impact to a neighborhood's character.

Should you have any further questions, please contact Charmie Huynh at 213-482-6875 or via email at charmie.huynh@lacity.org.

Respectfully,



Osama Younan
General Manager
Department of Building and Safety

AMY:VES:ZD:CW

**DEPARTMENT OF
CITY PLANNING**

OFFICE OF HISTORIC RESOURCES
221 N. FIGUEROA STREET, SUITE 1350
LOS ANGELES, CA 90012-2639

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VICE PRESIDENT

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LISA M. WEBBER, AICP
DEPUTY DIRECTOR

VACANT
DEPUTY DIRECTOR

January 28, 2021

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Dear Honorable Members:

**RE: LADBS REPORT ON PENALTIES IMPOSED FOR UNPERMITTED REMODELS,
ADDITIONS, AND DEMOLITION OF BUILDINGS AND STRUCTURES, COUNCIL FILE 17-0226-
S1**

The Cultural Heritage Commission sends this communication to provide comments relative to the February 4, 2020 Council Motion (O'Farrell-Ryu-Koretz), Council File 17-0226-S1, that instructed the Los Angeles Department of Building and Safety (LADBS) to report back to the Planning and Land Use Management (PLUM) Committee on penalties that can be imposed for unpermitted remodels, additions, and demolition of buildings. The scope of the motion focuses on designated historic buildings and potential historical resources identified through SurveyLA, the citywide historic resources survey.

Recently, there have been a few preemptive demolitions of properties being considered by the Commission for Historic-Cultural Monument designation. The result of work taking place without permits or review, and in violation of the Cultural Heritage Ordinance, left these properties unable to be considered on their merits as potential Historic-Cultural Monuments due to their partially demolished condition, and substantial loss of historic material. Especially vexing to the Commission is the lack of oversight by the City to regulate one of the first procedures in renovation and remodel work -- hazardous waste material removal. The current process allows a contractor to perform work for certain types of abatement without first obtaining a building permit from LADBS because the work meets certain Air Quality Management District (AQMD) guidelines. However, this process bypasses the Commission and/or the Office of Historic Resources review process triggered by a permit application under the Cultural Heritage Ordinance and Los Angeles Municipal Code Section 91.106.4.5 (Permits for Historical and Cultural Buildings) for designated historic properties and those being considered for local designation.

As identified in the attached LADBS report to the PLUM Committee, the current penalties for unapproved and unpermitted work are minimal and do not provide a sufficient deterrent to owners

or developers who seek to circumvent the process. Many large cities across the country have ordinances and fines that represent significant penalties for unapproved or unpermitted work on historic properties. The report from LADBS cites a number of policy models. This Commission recommends that the City Council adopt enhanced non-monetary penalties effectuated by the cities of Glendale and Pleasanton, requiring that a replacement project not exceed the height, square footage, and footprint of the demolished structure, which would serve as an effective deterrent to unpermitted demolition. The Commission also recommends that the Council adopt increased fines, via civil penalties, tied to a property's fair market value, as adopted by the cities of New York and San Antonio.

We also ask that the City Council consider a future motion seeking a report back on the feasibility of directing Los Angeles City Planning, LADBS, and the City Attorney to develop amendments to the Municipal Code and the Cultural Heritage Ordinance to ensure that stronger deterrent and enforcement mechanisms are codified and that property owners are duly notified of the changes to help safeguard the City's historical resources.

As the second largest city in the country, Los Angeles should set a standard, or at least be on-par with other cities, to establish deterrents and penalties that protect designated and potential historical resources from unpermitted alteration and demolition.

If there are any questions, please contact Ken Bernstein at (213) 847-3652 or Lambert Giessinger at (213) 847-3648.

Sincerely,



Richard Barron, President
Cultural Heritage Commission

CITY OF LOS ANGELES

CALIFORNIA



ERIC GARCETTI
MAYOR

BOARD OF
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November 9, 2020

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e) Building Moratorium

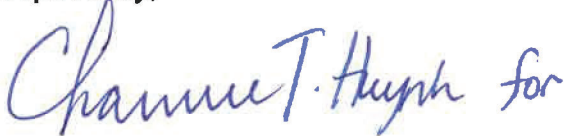
The Cities of Alameda and Ventura prohibit the issuance of building permits for five (5) years for illegal demolition or alteration of historic buildings, while the City of Glendale prohibits the issuance of new construction permits for three (3) years from the date of demolition.

CONCLUSION

This report presented recommendations that can discourage and penalize unpermitted building demolition or alteration. These proposals, if implemented, serve to further protect neighborhoods from activities that are hazardous or create a nuisance; the disincentives and penalties outlined in this report aim to deter, limit, and stop such activities. By doing so, the City of Los Angeles can preserve community resources and minimize harmful impact to a neighborhood's character.

Should you have any further questions, please contact Charmie Huynh at 213-482-6875 or via email at charmie.huynh@lacity.org.

Respectfully,



Osama Younan
General Manager
Department of Building and Safety

AMY:VES:ZD:CW

PLANNING AND LAND USE MANAGEMENT COMMITTEE REPORT relative to penalties imposed for unpermitted remodels, additions, and demolition of buildings and structures.

Recommendations for Council action, as initiated by Motion (O'Farrell - Koretz - Ryu):

1. ADOPT enhanced non-monetary penalties effectuated by the Cities of Pleasanton and Glendale, requiring that a replacement project not exceed the height, square footage, and footprint of the demolished structure, which would serve as an effective deterrent to unpermitted demolition, as follows:
 - a. The City of Pleasanton's proposed ordinance allows for a fine to be imposed based on the appraised value of the building before demolition, or the replacement value of the demolished building; and, states that new or replacement development needs to be no larger than the demolished historic building by square footage, floor area ratio, height, and location, with this development restriction in place for 20 years.
 - b. The City of Glendale prohibits the issuance of new construction permits for three years from the date of demolition.
 - c. The City of Glendale's Demolition Deterrence Ordinance also contains affirmative maintenance of lot provisions as property maintenance requirements.
 - d. The City of Glendale requires in-kind reconstruction of destroyed or deteriorated features of a building that is illegally demolished, or demolished by through demolition by neglect.
 - e. The City of Glendale requires new structures to maintain the footprint, height, and square footage of demolished structures.
2. ADOPT increased fines via civil penalties tied to a property's fair market value, as adopted by the Cities of New York and San Antonio, as follows:
 - a. The City of New York's Landmarks Preservation Law imposes a civil penalty for unpermitted demolition in the amount of up to the fair market value of the improvement parcel, with or without the improvement.
 - b. The City of San Antonio levies a fine for unpermitted demolition in the amount of 90 percent of the fair market value of the cost of replacement or repair of such building, object, or structure; such fines collected are to be used for the benefit, rehabilitation, or acquisition of local historic resources.
 - c. The City of San Antonio considers demolition by neglect as a civil offense and imposes penalties of \$1,000 per day.
3. CONSIDER a future Motion seeking a report back to the Council on the feasibility of directing the Department of City Planning (DCP), Los Angeles Department of Building and Safety (LADBS), and the City Attorney to develop amendments to the Los Angeles

Municipal Code and the Cultural Heritage Ordinance to ensure that stronger deterrent and enforcement mechanisms are codified; and, that property owners are duly notified of the changes to help safeguard the City's historical resources.

4. REQUEST the City Attorney to prepare and present an Ordinance, with the assistance of the LADBS, if new fines are recommended to be added, or existing fees are increased.
5. INSTRUCT the LADBS, in coordination with the Los Angeles Housing and Community Investment Department (HCIDLA) and the DCP, to prepare any necessary fee study and conduct public hearings.
6. DIRECT the LADBS, in coordination with the HCIDLA and DCP, to add protected housing units, such as Rent Stabilization Ordinance, covenanted affordable housing, etc., to the types of buildings that will be subject to the additional penalties set forth in the policy; and, INSTRUCT the HCIDLA to join the effort and work with the existing City departments on the matter.
7. DIRECT the LADBS, in coordination with the DCP and the City Attorney, to draft ordinance language that would enhance non-monetary penalties for unpermitted demolition by requiring the replacement project to maintain the footprint, height, and square footage of demolished structures; for properties whose zoning designations allow for multi-family housing, property owners may exceed the footprint and size of the demolished structure, up to the existing zoning capacity, if they set aside a mandatory percentage of new units for covenanted affordable housing, or pay an in-lieu fee for affordable housing.
8. DIRECT the HCIDLA, in coordination with the LADBS, DCP, and the City Attorney, to conduct an analysis on the tipping point for the affordable housing requirement, setting the percentage to exceed any affordable unit requirements from other housing programs, including the Transit Oriented Communities Guidelines, or Density Bonus, while ensuring that a replacement project is not rendered economically infeasible.

Fiscal Impact Statement: None submitted by the LADBS. Neither the City Administrative Officer nor the Chief Legislative Analyst has completed a financial analysis of this report.

Community Impact Statement: Yes.
For: Mar Vista Community Council

Summary

At a special meeting held on February 4, 2021, the PLUM Committee considered the reports from the LADBS and Cultural Heritage Commission relative to the penalties that can be imposed for unpermitted remodels, additions, and demolition of buildings, mainly designated historic buildings and historic resources, in response to Motion (O'Farrell - Koretz - Ryu). Staff from the LADBS and DCP provided an overview of the matter. Council District 13 staff provided comments in support of the LADBS' recommendations. After providing an opportunity for public comment, the Committee moved to approve the recommendations contained in the subject LADBS report, as amended. This matter is now submitted to the Council for its consideration.

Respectfully Submitted,

PLANNING AND LAND USE MANAGEMENT COMMITTEE

<u>MEMBER</u>	<u>VOTE</u>
HARRIS-DAWSON:	YES
CEDILLO:	YES
LEE:	YES
BLUMENFIELD:	ABSENT
RIDLEY-THOMAS:	ABSENT

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-NOT OFFICIAL UNTIL COUNCIL ACTS-