

ORDINANCE NO. 268

AN ORDINANCE RELATING TO ANIMALS, PROVIDING FOR THE RESPONSIBILITY OF OWNERS OF ALL DOGS AND CATS WITHIN THE CORPORATE LIMITS OF THE CITY OF TEXICO; LICENSING REGULATIONS; IMPOUNDMENT OF ANIMALS; STERILIZATION AGREEMENT AND STERILIZATION DEPOSIT; RABIES CONTROL, KEEPING OF WILD OR VICIOUS ANIMALS, PROVIDING FOR ADMINISTRATION, ENFORCEMENT AND PENALTIES; AND REPEALING EXISTING CODE SECTIONS AND AMENDING EXISTING CODE SECTIONS.

BE IT ORDAINED by the governing body, that is the City Council of the City of Texico, in the County of Curry and State of New Mexico:

SECTION 1: RECITALS. Ordinance No. 219 of the Texico City Code was originally adopted in 1983 with Section Four having been amended by Ordinance No. 262 in 1994. The New Mexico Legislature adopted regulations effective July 1, 1993, concerning the sterilization of animals and the procedures to be utilized for the impoundment of animals. The City Council finds that it is necessary to revise certain provisions of Ordinances 219 and 262 of the Texico City Code and to revise certain sections to conform to state law.

SECTION 2: AMENDMENT AND REPEAL OF EXISTING SECTIONS AND ADDITION OF NEW SECTIONS TO ORDINANCES 219 AND 262 OF THE TEXICO CITY CODE. The following sections are either amended, repealed, or adopted (as indicated) to the Texico City Code.

- Section 1. Definitions
- Section 2. Animal Control Officer
- Section 3. Licensing Regulations and Impoundment
- Section 4. Prohibitions
- Section 5. Rabies Vaccination Requirements
- Section 6. General
- Section 7. Pet Sterilization

A. The following definitions as set forth in Section 1 of Ordinance 219 of the Texico City Code are hereby amended to read as follows:

Section 1 (B) Animal Control Officer. Animal Control Officer: The person or persons employed by the City as its enforcement officer(s) for this ordinance.

Section 1 (M) Running at Large. Running at Large: A dog or cat will be deemed running at large when it is off the property of the owner or not in an enclosed area on the owner's property. A dog or cat shall not be considered to be running at large if it is on a leash or under the control of a person physically able to control it.

B. The title of Section 2, Licensing shall be retitled Section 2. Animal Control Officer and amended to read as follows:

Section 2. Animal Control Officer.

1. Duties. Animal Control Officer(s) shall serve under the supervision of the Town Marshall. It shall be the duty of the Animal Control Officer to receive, impound and safely keep all such animals and fowl turned loose, abandoned, running at large, or straying and going upon any of the streets, alleys, public places, or lot or property not owned or leased by the owners thereof within the city. Animal Control Officer(s) shall be authorized to enter upon any unenclosed lot or enclosed lot or premise for the purpose of enforcing this ordinance.

2. Fees. The Animal Control Officer shall be entitled to collect and receive from the owner or person claiming any animal taken up or impounded, before delivering the same to any such person, in addition to fees for vaccination or sterilization, the following fees as set forth in Section 3-2, Section 3-6, and Section 3-9-F.19(a) (b) (c) and (d) herein.

3. Interfering with Animal Control Officer Prohibited. It is unlawful for any person to interfere with, molest, hinder, or prevent the Animal Control Officer or his/her duly authorized representative in the discharge of their duties as prescribed in this chapter.

C. The title of Section 3 Prohibitions. shall be retitled Section 3. Licensing Regulations and Impoundment., and shall be amended to read as follows:

Section 3. Licensing Regulations and Impoundment.

1. Annual License Required. No person shall own, keep or harbor any dog or cat within the city limits unless such dog or cat is licensed as herein provided. Written application shall be made to the City Clerk and shall state the name and address of the owner and the name, breed, age, color and sex of the dog or cat. The license fee shall be paid at the time of making application.

2. Fee Established. The yearly license fee shall be one dollar (\$1.00) for each sterilized dog or cat and three dollars (\$3.00) for each unsterilized dog or cat up to a limit of three (3). If a household contains more than three (3) dogs or cats, the City Clerk shall collect a license fee of eight dollars (\$8.00) for each additional dog or cat.

a. Exception. No fee shall be charged for the licensure of qualified service animals who are trained to lead partially or totally blind persons, aid hearing impaired persons or assist mobility impaired persons.

3. Vaccination Prerequisite to Licensing. A n y person who owns or keeps a dog or cat over the age of three (3) months in the city limits shall have the dog or cat vaccinated against rabies annually with vaccine approved by the Director of the Health and Social Services Department. All anti-rabies vaccine shall be administered by or under the supervision of a licensed veterinarian.

Before the City Clerk shall accept any money proffered in payment of the license fee on any dog or cat, the person applying for the license of such dog or cat shall exhibit to the City Clerk a certificate from a licensed veterinarian showing that such dog or cat has been vaccinated against rabies by such veterinarian.

4. Tags. The City Clerk, upon issuing the license as herein provided, shall also issue a tag to the applicant. The owner shall cause said tag to be affixed by a permanent metal fastener to the collar of the animal so licensed in such a manner that the tag may be

easily seen by officers of the city. The owner shall see that the tag is constantly worn by such animal. Provided, that show dogs and cats and sporting dogs shall not be required to wear such collar and tag when they are in the immediate control of a competent person.

a. Duplicate Tags. In case any license tag is lost, duplicates may be issued by the City Clerk upon presentation of a receipt showing the payment of license for the current year for that animal. A charge of one dollar (\$1.00) shall be made for each duplicate tag.

b. Offense Involving Tags and Licensure. It shall be unlawful to counterfeit tags. It shall be unlawful to take a tag from one animal and place it on another. It shall be unlawful for any person to provide false information to obtain a dog or cat license under this ordinance.

5. Transfer of Ownership. If there is a change in ownership of a dog or cat during the license year, the new owner shall have the current license transferred to his name within thirty (30) days of the transfer of the animal and upon payment of a transfer fee of one dollar (\$1.00).

6. License Issuance and Penalty for Late License Application. All dog and cat licenses shall be issued for one (1) year and shall expire on the thirty-first (31st) day of March. Applications for licenses may be made thirty (30) days prior to any sixty (60) days after the start of the licensing year without penalty, but, when application is made after sixty (60) days of the licensing year have elapsed, the applicant shall be assessed a penalty of fifty (50) percent of the license fee. Provided, if the dog or cat did not become subject to licensing until after the start of the licensing year and licensing is obtained for such animal within thirty (30) days, the fee shall be prorated on a quarterly basis. The fifty (50) percent penalty will apply to such license fees if the license is not obtained within thirty (30) days after the animal become subject to licensing.

a. Exceptions. The provisions of this Section shall not be intended to apply to dogs or cats whose owners are non-residents temporarily within the city, nor to animals brought into the city for the purpose of participating in any dog or cat show, nor to qualified service animals who are trained to lead partially or totally blind persons, aid hearing impaired persons or assist mobility impaired persons.

7. Residential Multi-Animal Permit Requirements.

a. A TEN AND NO/100 DOLLAR (\$10.00) Residential Multi-Animal Permit Fee will be required annually of households having five (5) or more sterilized dogs or cats or any combination thereof. Permits will be purchased yearly from the City Clerk. If a dog or cat or any combination thereof is impounded, fees in Section 2-9-F, apply.

b. A TWENTY AND NO/100 DOLLAR (\$20.00) Residential Multi-Animal Permit fee will be required annually of household having five (5) or more unsterilized dogs or cats or any combination thereof. Permits will be purchased yearly from the City Clerk. If a dog or cat or any combination thereof is impounded, fees in Section 2-9-F apply.

8. Commercial Permits.

a. A FIFTY AND NO/100 DOLLAR (\$50.00) fee will be required annually of individuals raising or selling dogs or cats for profit whether in a residence or

commercial building. Owners must also comply with zoning laws, Health and Welfare Laws, and City Business License Laws. If dogs or cats are impounded, the fees in Section 2-9-F will apply. Police Officers, Animal Control Officers, or the Inspection Department may inspect businesses for compliance with this section.

9. Impoundment.

A. Authorized. The Animal Control Officer of the city shall take up and impound any dogs or cats found in the city without a rabies vaccination tag or a license tag as provided in this section and may impound any dogs or cats found running at large. Officers shall be authorized to enter upon any unenclosed property or enclosed property or premises for the purpose of enforcing this section if a violation is observed by the officer.

B. Owner Notification. Immediately upon impounding dogs, cats or other animals, the Animal Control Officer shall make every possible effort to notify the owners of such dogs, cats or other animals so impounded, and shall inform such owners of the conditions whereby they may regain custody or such animals. All dogs impounded shall be kept for a period of three (3) days unless sooner redeemed by their respective owner, and a fraction of a day shall be computed as being a full day for the purposes of this section.

C. Impounded Animal--Notification Requirements. Within three (3) days after taking up any animal, the Animal Control Officer shall give public notice of the taking and detention. The notice shall contain a description of the animal, the time and place at which the same will be offered for sale, the date upon which the same was taken up, and that if the same is not redeemed by the payment of all costs and fees chargeable against the animal within five (5) days from the date of such notice, that the animal will be sold at public auction to the highest bidder for cash, which notice shall be posted by the Animal Control Officer in at least two (2) public places in the City.

D. Impounded Animal--Sale and Disposition of Proceeds. If the animals impounded pursuant to this chapter are not redeemed within the time prescribed in the notice provided for in Section 3-8-C, then it shall be the duty of the Animal Control Officer to offer for sale and sell the same to the highest bidder for cash, and out of the proceeds of such sale, pay, first, all fees, costs and expenses of the taking up, advertising, keeping and sale of such animal, second, the remainder, if any, to the City Treasurer for the use of the owner of such animal. The city shall in no case be liable to or pay the owner any sum in excess of the sum so received by its Treasurer as proceeds from the sale of any such animal, and in no case shall the city be liable for any fees or expenses of the City Animal Control Officer for the taking, detention, advertising or sale, of any such animals.

E. Interference with Animal Control Officer. No person shall take or attempt to take any animal held by the Animal Control Officer from the possession or custody of the Animal Control Officer without first paying all the fees and expenses connected with the taking, keeping, advertising or sale of the same, or shall interfere with the Animal Control Officer in the lawful discharge of any of his/her duties.

F. Impoundment Fees.

1. The Animal Warden or his duly authorized

agent shall release any dog or cat from the Animal Shelter upon receipt of satisfactory proof of ownership and upon payment of:

- (a) an administrative fee as charged by the City of Clovis Animal Shelter;
- (b) license fee, and presentation of proof of current licensing;
- (c) presentation of proof of current vaccination for rabies; and
- (d) agreements, deposits, etc. as required by Section 7. Pet Sterilization.

2. Should the person receiving the pet not be able to furnish proof of vaccination, the Animal Warden shall not release the pet until the Animal Warden has collected a vaccination fee, the amount of which shall be established from time to time by the City Council. The person receiving the pet shall be given a receipt for the payment of the vaccination fee. Presentation of the receipt for the vaccination fee shall entitle the person receiving the pet vaccinated at any licensed veterinarian.

3. In no event shall any pet be released by the Animal Control Officer until the person receiving the pet has presented proof of vaccination for rabies.

4. Unclaimed and unadopted dogs or cats shall be humanely destroyed by the Texico Animal Control Officer after the provisions of this title have been met.

D. The title of Section 4. Impoundment. shall be retitled Section

4. Prohibitions., and shall be amended to read as follows:

Section 4. Prohibitions.

(1) Animals Running at Large Prohibited. It is unlawful for any person owning, harboring or having the custody, control or possession of any dog or cat to cause or permit such dog or cat to:

A. Be in or upon any public street, alley or other public place, or in or upon any unenclosed premises unless such dog or cat is on a leash or under the control of a person physically able to control it.

B. Commit any damage or nuisance upon the property of any other person or upon a public street, alley or other public place.

(2) Dogs--Vicious.

A. It shall be unlawful for any person to harbor or keep a vicious animal within the City. Any animal which is found off the premises of its owner may be seized by any Police Officer or Animal Control Officer and upon establishment, to the satisfaction of any court of competent jurisdiction, of the vicious character of said animal, it may be destroyed by any animal control officer. This section shall not apply to animals under the control of a law enforcement or a military agency, nor to animals which are kept for the protection of property, provided that such animals are restrained by a leash or chain, cage, fence, or other adequate means, from contact with the general public or with persons who enter the premises with the actual or implied permission of the owner or occupant.

B. An animal shall be considered a "vicious animal" when it has attacked or bitten a person or animal and has been adjudicated as such by a court of competent jurisdiction. An animal that has attacked or bitten a person or animal a second or subsequent time will be considered vicious and may be destroyed by an Animal

Control Officer or Police Officer without court approval. Any animal may be considered vicious which has behaved in such a manner that the person who harbors said animal knows or should reasonably know that the animal possesses tendencies to attack or bite persons or other animals. Any animal deemed vicious and impounded by an Animal Control Officer or Police Officer will not be released to its owner or adopted.

C. Definition. "Attack" or "attacked" shall be defined as such actions by an animal which shall cause a reasonable person to fear that he or she is in eminent danger of bodily harm.

(3) Nuisance Prohibited. No owner, possessor, or keeper of an animal shall allow that animal to become a nuisance endangering or offending the well-being of the inhabitants of the City. Owners of animals covered by this Ordinance will clean all animal feces from their property daily. If an animal is being walked away from the owner's property and defecates the feces will be cleaned immediately by the owner or whoever is walking the animal. Owners will not allow dogs or cat to defecate upon public property or school yards.

E. The title of Section 5. Rabies Control. shall be amended to read as follows:

Section 5 Rabies Vaccination Requirement.

1. No person shall own, keep or harbor any dog or cat over three (3) months of age within the city limits unless such dog or cat has had a vaccination for rabies as provided in this chapter. The owner of a dog or cat must have current proof of rabies vaccination and display the rabies tag on the appropriate dog or cat. The Owner also must have a current receipt from a qualified veterinarian.

2. The rabies vaccination tag number issued by a veterinarian upon administering the rabies vaccination will be displayed on the appropriate dog or cat in addition to the Texico City Dog/Cat tag as set forth in Section 3-4 and will be used to identify the owner of dogs and cat running at large.

3. Person Bitten by Animal--Report Required. Every person bitten by an animal, whether wild or domesticated, within the city, shall report such bite to the Police Department or to the Animal Control Officer. If the person so bitten is a minor or incapacitated person, then the report shall be made by such person's natural guardian, probate guardian, or person having his/her custody. The report shall be in writing and shall be signed by the person making the report.

4. Person Bitten by Animal--Physician's Report. It shall be the duty of every physician within twelve (12) hours after his first professional attendance upon any person bitten by an animal, whether wild or domesticated, to report to the Police Department or Animal Control Officer the names and addresses of persons treated for bites, together with such other information as will be helpful in rabies control.

5. Rabies Suspect--Veterinarian's Report. It shall be the duty of every licensed veterinarian to report to the Police Department or the Animal Control Officer his/her diagnosis of any animal observed by him/her as a rabies suspect, whether the animal is wild or domesticated.

6. Quarantine of Biting Animal Authorized--Requirements.

(1) Any Police Officer or Animal Control Officer

is authorized to pick up any animal which is alleged to have bitten a person, whether the biting was observed by the Police Officer, Animal Control Officer, or reported pursuant to Section 5 (C), and to quarantine such animal for a minimum of ten (10) days.

(2) At the discretion of the Animal Control officer, such quarantine may be on the premises of the owner, if the owner can show proof of current vaccination for the animal, at the shelter designated as the City Animal Shelter, or at the owner's expense, in a veterinarian hospital of his/her choice; provided, however, that if a Court of competent jurisdiction finds that animal did not in fact inflict the alleged bite then the animal shall be released at once, without payment for the cost of its care, and such cost shall be paid by the City. If the owner refuses to accept the financial responsibility for a veterinarian visit before and after the animal is quarantined, the animal will be euthanized and required rabies examinations will be conducted by the appropriate state agency.

(3) Any animal quarantined after having allegedly bitten a person shall be examined by a veterinarian at least twice, once at the beginning and once at the end of the ten (10) day observation period. The expense for such examination shall be borne by the owner. If the owner refuses to accept the financial responsibility for a veterinarian visit before and after the animal is quarantined, the animal will be euthanized and required rabies examinations will be conducted by the appropriate state agency.

7. Quarantine--Impounded Animal Restrictions. No animal which has been impounded and is unclaimed by its owner shall be transferred to a new owner during the period of rabies emergency quarantine, except by special authorization of the Animal Control Officer.

8. Quarantine--Disposition of Animals at Large. When a quarantine order has been issued pursuant to Section 5 (F) and dogs or cats or other animals continue to run at large, uncontrolled by the owners or person responsible for their control, any law enforcement officer shall have the right, after reasonable effort has been made on the part of the Animal Control Officer or his agents to apprehend and impound such animals running at large, to kill such animals and properly dispose of their bodies.

9. Fine In Lieu of Impoundment. In addition to, or in lieu of, impounding an animal found at large, the Animal Control Officer, his/her agent, or a police officer, may issue to the known owner of such animal a citation of ordinance violation. Such citation shall impose upon the owner the penalty provided for in Section 6-4, which may, at the discretion of the animal owner, be paid to the Municipal Court within seventy-two (72) hours in full satisfaction of the assessed penalty. In the event that such penalty is not paid within the time period prescribed, the owner shall be cited by the Municipal Judge for failure to appear and a warrant shall be issued by the Municipal Judge for the owner's arrest.

F. The title of Section 6. General. shall be amended to read as follows:

Section 6. General.
1. Living Conditions.

A. Care of Animals. No owner or harbinger or animals shall fail to provide his animal with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed

to prevent suffering, and with humane care and treatment. No person shall leave an animal in a vehicle without proper ventilation during hot weather or without proper warmth during cold weather. Persons shall not leave animals without proper shelter during inclement weather.

B. Abandonment of Animals. It is unlawful for any person to abandon any animal within the City of Texico. Owners of unwanted animals may release animals to the Animal Shelter for adoption, or to be destroyed in a humane fashion in compliance with this ordinance.

C. Physical Abuse. It is unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise cruelly set upon any animal, except that reasonable force may be employed to drive off vicious or trespassing animals.

D. Animal Poisoning. It is unlawful for any person to make accessible to any animal, with the intent of harming or killing the animal, a substance which has been treated or prepared with a harmful or poisonous material.

E. Uncared for Animals. Whenever Animal Control finds that an animal is or will be without proper care because of injury, illness, incarceration, or other absence of the owner of such animal, Animal Control may take up such animal for protective care. While the animal is in protective care, upon the advice of a licensed veterinarian, Animal Control may take such action as necessary to prevent undue pain and suffering to the animal, including the humane destruction of the animal. If an animal remains in protective care for six (6) days, Animal Control may place the animal for adoption, or otherwise dispose of it in accordance with the provisions of this ordinance. All care will be at the expense of the owner, if known.

F. Injury to Animals by Motorists. Any motor vehicle operator who strikes any animal shall immediately give first aid to the animal as is reasonably possible and shall immediately notify Animal Control. The operator shall immediately notify the owner, or in the absence of the owner, Animal Control. The operator shall remain at or near the scene until such time as the owner or Animal Control arrives. In case of severe emergency to the animal, a person may give aid by taking the animal to a veterinary hospital or the Animal Control Facility.

G. Keeping of Sick or Diseased Animals. It is unlawful for any person to keep any animal which is seriously sick or injured and not provide proper veterinary care for said animal. Animal Control may impound and humanely destroy sick or injured animals in accordance with the provisions of this ordinance, without giving notice as provided in the impound section of this ordinance. Any animal impounded under this section shall be immediately and humanely destroyed, if at the discretion of the Animal Control Supervisor, the animal's condition is a threat to other animals or to the public welfare.

H. Authorized. The Animal Control Officer of the city is empowered to enter upon any premises upon which a dog is kept or harbored and to demand the exhibition by the owner of such animal and/or the license for such animal. It is further provided that any agent of the Animal Control Officer may enter the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal and to take possession of such animal when, in his opinion, the animal is being treated inhumanely.

I. Notification of Impounded Animals. Upon the

impounding of any animal under the provisions of this section, it shall be the duty of the Animal Control Supervisor or other Animal Control personnel to notify the owner if the owner is known or can be learned from a vaccination tag or other form of identification. Such notice shall be by the most practical means appropriate in each instance.

2. Recordkeeping.

A. It shall be the duty of the Animal Control Officer to keep, or cause to be kept, accurate and detailed records of the impoundment and disposition of all animals coming into his/her custody.

B. It shall be the duty of the Animal Control Officer to keep, or cause to be kept, accurate and detailed records of all bite cases reported to him/her and his/her investigation of the same.

C. It shall be the duty of the City Clerk to keep or cause to be kept, accurate and detailed records of licenses issued under the provisions of this title.

3. Enforcement Powers. For the purpose of discharging the duties imposed by this ordinance and to enforce its provisions, any agent of the Animal Control Officer or any Police Officer is empowered to enter upon any premises upon which a dog is kept or harbored and to demand the exhibition by the owner of such animal and/or the license for such animal. It is further provided that any agent of the Animal Control Officer may enter the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal and to take possession of such animal when, in his/her opinion, it requires humane treatment.

4. Penalty. Any person who violates any of the provisions of this ordinance shall be liable for a penalty of:

A. TWENTY-FIVE DOLLARS (\$25.00) for the first offense;

B. FIFTY DOLLARS (\$50.00) for the second offense; and

C. ONE HUNDRED DOLLARS (\$100.00) for each subsequent offense in an action at law brought by the City for each animal.

D. All penalties set forth in this section are mandatory and may not be deferred or suspended on second or subsequent offenses.

G. There is hereby created a new section, designated Section 7.

Pet Sterilization, to the Texico City Code which shall read as follows:

Section 7. Pet Sterilization

1. Generally. This chapter shall conform to the requirements of the "Pet Sterilization Act" as same exists on the date of adoption hereof and as may be amended in the future.

2. Definitions. As used in this chapter the following definitions shall apply:

A. "Animal" means a cat or dog.

B. "Animal shelter" means any animal facility operated privately or by the City of Texico in which stray, lost, or unwanted animals are kept and released for adoption.

C. "Sterilization" means rendering an animal

unable to reproduce, either by spaying of a female animal, or by neutering of a male animal.

D. "Sterilization deposit" means that portion of the adoption fee charged by the Animal Shelter when a person adopts an unsterilized animal; the "sterilization deposit" is refunded when the animal is sterilized.

E. "Animal Control Officers or Police Officers" are empowered to pursue any animal running at large as described in Section 2 and impound it, even if the animal returns to the owner's property.

3. Sterilization Agreement and Sterilization Deposit Required.

A. No animal shall be released from the Animal Shelter to an adoptive person unless the person signs a written agreement to have the animal spayed or neutered. The sterilization deposit must be paid.

B. In addition to any adoption fee charged, a sterilization deposit of TWENTY-FIVE AND NO/100 DOLLARS (\$25.00) shall be imposed on the adoption of each animal from the Animal Shelter.

C. Animals less than six (6) months of age shall be released only upon payment of the adoption fee and a sterilization deposit and after the adopting person has signed an agreement stating he/she will have the adopted animal sterilized when it is no older than six (6) months of age. All sterilization deposits and refunds will be administered by the Animal Shelter.

D. Adult animals over the age of six months shall be released only upon payment of the adoption fee and a sterilization deposit and after the adopting person has signed an agreement stating he/she will have the animal sterilized within 30 days of the date of the adoption.

E. The sterilization deposit shall be reimbursed only on presentation of a receipt from a veterinarian that the adopted animal has been sterilized.

F. An unsterilized animal reclaimed by its owner shall be released without being sterilized upon payment of the TWENTY-FIVE AND NO/100 DOLLARS (\$25.00) for the sterilization deposit and impoundment fees imposed by the Animal Shelter, and the owner shall sign an agreement stating he/she will sterilize the animal within 30 days after the release or will obtain a breeder permit or the equivalent. The sterilization deposit will be reimbursed upon presentation by the owner of a receipt from a veterinarian that the animal has been sterilized. The animal will not be released to the owner until the sterilization agreement has been signed.

PASSED, APPROVED AND ADOPTED this 14 day of February,

1995.

THE CITY OF TEXICO, NEW MEXICO

BY: Nathan T. Sharp
NATHAN THARP, MAYOR

(S E A L)

ATTEST:

Ernie Christians
City Clerk

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