

## LOCAL PUBLIC DATA

# New short-term-rental rules limit supply, restrict future growth

*The city of Aspen and Pitkin County have issued about 900 STR permits since last fall*



by **Laurine Lassalle**

April 29, 2023



Ben Wolff, general manager of Frias Properties of Aspen, is one of the many primary contacts listed on the city's short-term rental permits who works for a real estate or vacation rental or management property. These designated contacts must live in the Roaring Fork River drainage and be able to respond to an emergency.

CREDIT: KELSEY BRUNNER/ASPEN JOURNALISM

Short-term-rental permit regulations implemented about six months ago in the city of Aspen and Pitkin County are limiting the growth of the residential vacation rental marketplace.

Both local governments debuted new short-term-rental (STR) policies last year, in response to accelerating residential construction, environmental impact and socioeconomic concern.

Since new permits became available in September and October, Aspen has issued 790 as of April 3 and 111 licenses were issued in unincorporated Pitkin County as of April 20, for a total of 901 licensed STRs between the jurisdictions.

That appears to be well below the total number of properties involved in short-term vacation renting prior to the new permit regulations, when neither jurisdiction had strict limits on STR proliferation.

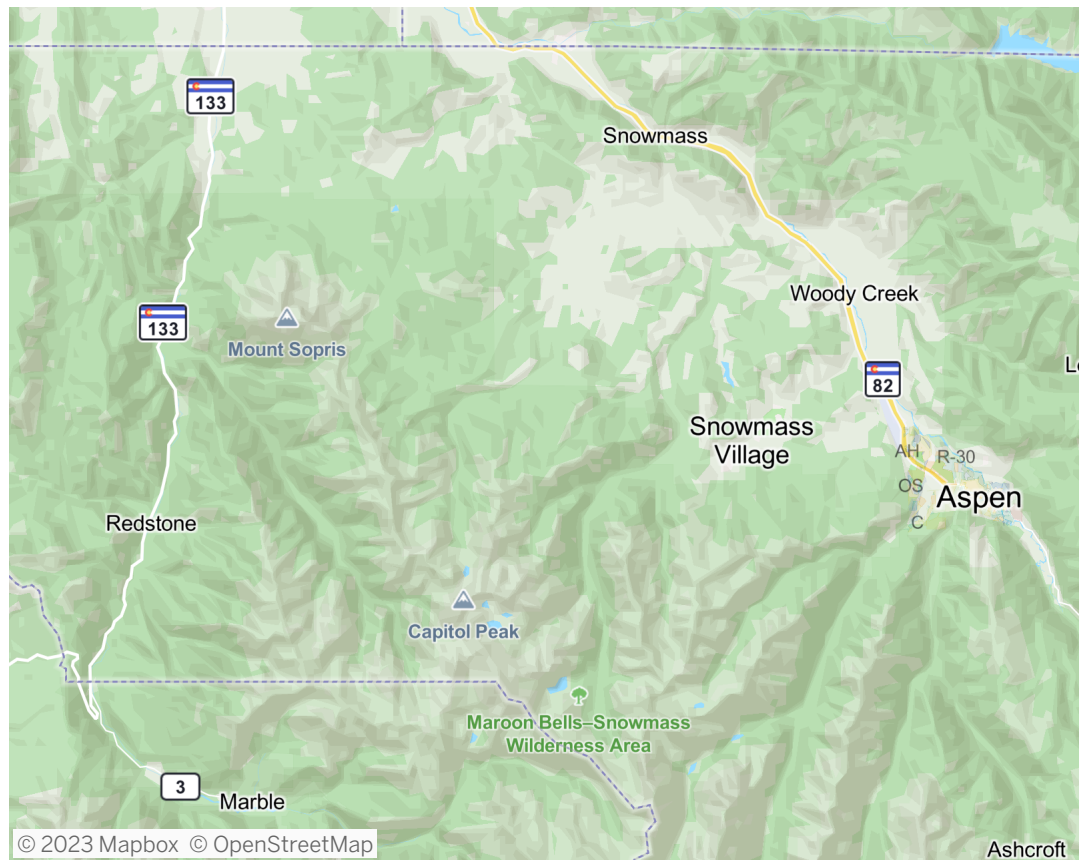
Aspen City Council in December 2021 voted in an emergency moratorium halting new residential construction proposals and STR permit applications, and began a code-amendment process. The results, approved in June, allow unlimited STRs in the downtown core and lodging zones at the base of Aspen Mountain, but they set quotas in the remaining residential zoning districts.

There are now more than 50 properties on a waitlist for a city STR permit, while eight of 14 residential zoning districts have reached or exceeded their caps, which council set at 75% of the estimated number of STRs prior to the moratorium. City voters in November also approved an additional 10% tax on most STRs, on top of existing sales and lodging taxes, which will take effect May 1.

In Pitkin County, the number of active STR permits appears to cover roughly half the preregulation estimate of properties engaging in the use. Regulations passed by Pitkin County commissioners in June and July charge hefty fees for STR permits that cap occupancy at 120 nights per year. The permits are not available to new construction or properties without a documented rental history prior to last spring.

Aspen Journalism has produced a map showing each property with an STR license located in the city and the county. (The town of Snowmass Village, which has its own STR regulations managing its large supply of units, is not included in the data or analysis.) The map below differentiates Pitkin County STR licenses from city-issued licenses by color, with county-permitted properties shaded in red and city permits in purple. The map displays information established through the permit-application process and released to Aspen Journalism by city and county officials after Colorado Open Records Act requests, including the permittee's name, address and issuance date, and the name of the primary contact associated with the permit.

## Short-term rental permits issued in Pitkin County (a and Aspen (as of April 3, 2023)



Sources: City of Aspen, Pitkin County  
Credit: Laurine Lassalle - Aspen Journalism

### Source

City of Aspen Pitkin

Aspen properties — comprising 88% of the total between the two jurisdictions — display which of the city's three STR permit types the unit holds, while the county's data includes the property's maximum renter occupancy and the fee tier the permit falls under, which corresponds with the number of rental nights allowed.

The city and county require an STR permit holder to list a primary contact or owner's representative who must live in the Roaring Fork River drainage and be able to respond to an emergency. These designated contacts are often individuals associated with a real estate, vacation rental or management company hired by the property owner. Looking at the combined city and county STR permit list, 56% of the licenses are represented by a primary contact who appears on at least one other license.





Ben Wolff, general manager of Frias Properties of Aspen, communicates with colleagues outside of the Chateau Roaring Fork off of Cooper Ave. during morning rounds of units and properties in Aspen, Colorado on Tuesday, April 18, 2023. (Photo by Kelsey Brunner)

## Aspen's 'classic' STRs are distinct from two other types

In the city of Aspen, which began requiring a business license for each individual unit engaged in vacation rentals in 2020, the residential real estate sector had long been feeling pressure brought on in part by STRs and the popularization of online platforms such as Airbnb and Vrbo.

Those impacts were compounded in the wake of the COVID-19 pandemic, which drew more people to rural areas and outdoor-recreation destinations. Between 2019 and 2022, single-family-home building permit applications in the city of Aspen nearly doubled, while the median sale price for a single family home in Aspen increased by 127%, to \$12.97 million from \$5.7 million, according to the Aspen Board of Realtors.

The city enacted a moratorium in December 2021 that paused the issuance of new STR permits through Sept. 30. Starting on Oct. 1, the newly adopted STR regulations went into effect. One of the key measures was the creation of three types of permits, including one subject to zone district quotas.



The three license categories are **lodge-exempt (STR-LE)**, **owner-occupied (STR-OO)** and **classic (STR-C)**. Applicants are required to submit a self-inspection affidavit, a homeowners association compliance affidavit if the property is part of an HOA and a public notice affidavit stating that they displayed a public notice poster and mailed or hand-delivered letters to neighbors within 300 feet of the property.

The city counts 790 licenses issued since officials began accepting applications in October. Of those, eight are STR-LE permits, 68 are STR-OO permits and 714 are STR-C permits. All applicants must pay an annual permit fee from \$148 per unit for the STR-LE permits to \$394 for either of the other two permits. City staff then have 15 days to review the application. Anyone getting a STR license from the city is also required to hold a business license with the city's finance department, which costs \$150 a year, and to pay applicable sales and lodging taxes.

Applicants who meet the definition of a “**lodge**” or “**condo-hotel**” are eligible for an STR-LE permit. The property must have at least 15 units used for overnight lodging, with common reservation and cleaning services and at least three amenities on site, such as a bar/restaurant, a lounge or a pool. STR-LE permit applicants don't need to submit the public notice affidavit, but they need to submit an STR-LE affidavit. Examples of properties licensed under this type of permit include The Gant, Aspen Alps and Aspen Square; there is no limit on annual rental nights.

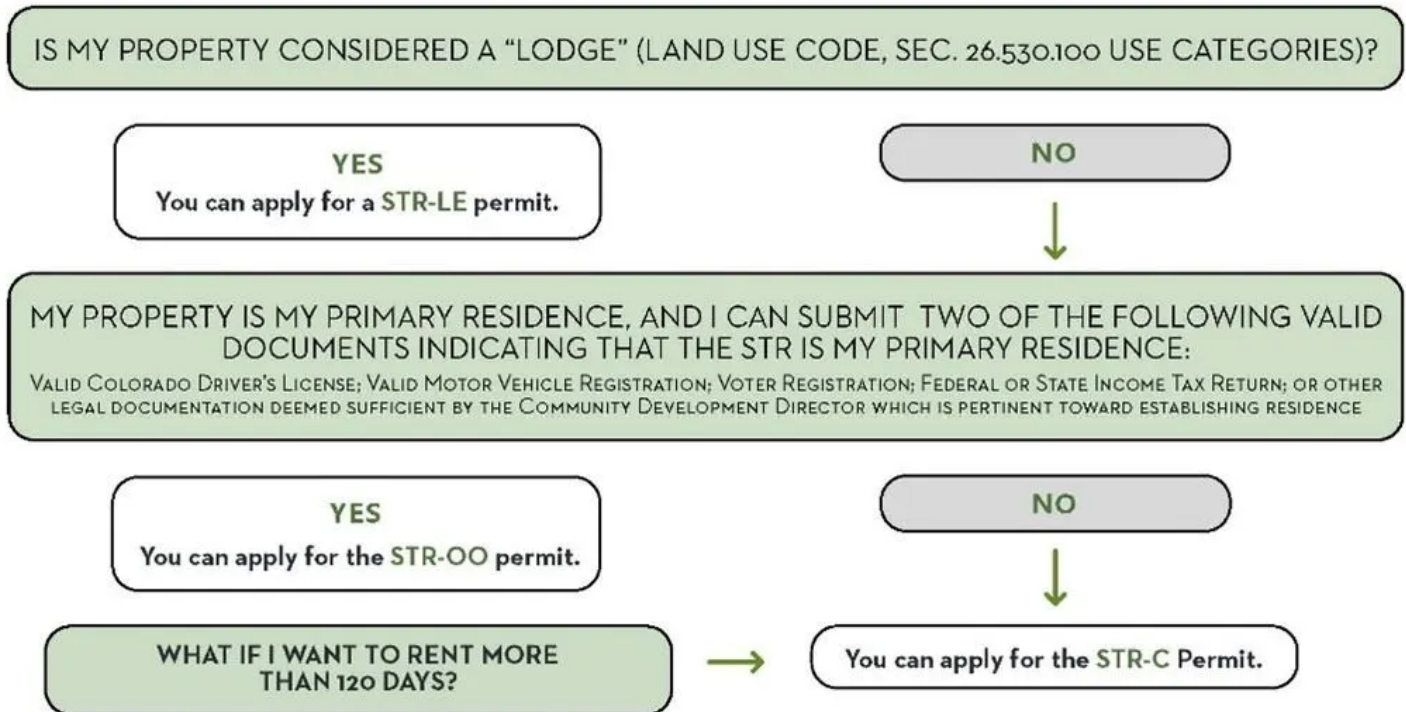
Applicants for the **STR-OO** permit need to submit proof that the unit in question is their primary residence. The permit allows homeowners to rent their property for up to 120 nights per year, and there are an unlimited number of STR-OO permits allowed in zone districts where STRs are permitted.

“I think council did not want to limit the ability for people living locally to leave for the offseason and rent their house out for a few weeks to make some supplemental income,” said Emmy Garrigus, manager of the city of Aspen's lodging and commercial core program.

# SHORT-TERM RENTAL PERMIT TYPE FLOWCHART



## WHAT IS MY STR PERMIT TYPE?



CREDIT: COURTESY OF THE CITY OF ASPEN

## Quotas block new STRs in many neighborhoods

A property that is not a primary residence or a property where the owner wishes to rent for more than 120 nights needs an **STR-C** permit. Although an unlimited number of these permits are allowed in the C-1 (Commercial), CC (Commercial Core), L (Lodge), CL (Commercial Lodge) and Lodge Overlay and Lodge Preservation Overlay zone districts that make up most of the downtown core, Aspen's STR policy places caps on the number of permits allowed in each of the city's **14 other zoning districts** with residential uses. If the cap in the property's zone has been met, the applicant is placed on a waitlist. STR-C permittees can rent their property for an unlimited number of nights.

The caps range from one permit allowed in the R-3 and R-30 zones to 190 permits allowed in the R-MF (residential multifamily) zone district, which covers high-density neighborhoods east and west of the commercial core and in other parts of town.

“When [city staff was] drafting the ordinance, they looked at how many permits were issued in the residential zones and City Council decided to do 75% of the current numbers as the caps,” Garrigus said.

Despite the desired reduction in the overall number of STRs in operation before the moratorium, the city granted a new license to any property that applied in 2022 that held a valid permit before December 2021, regardless of the caps set by the new zoning regulations.

As a result, in four zone districts — R-MF, R-30, R-15 and R-6 — STR permits exceed the caps set by the city’s regulations, according to the STR-C permit availability [summary](#) published on the city’s website. This is especially pronounced in the R-MF zone, where 235 issued permits exceed the cap of 190. In the R-30 zone, which has the lowest unit density in the city, eight licensed STRs exceed the cap of one.

“As long as people who currently have permits continue to renew those permits each year and meet the permit renewal deadlines, they will stay active permits,” Garrigus said, adding that the city didn’t want to penalize people if they had had the permits previously. “A lot happened in 2022, so we wanted to give them essentially first right to renew those permits.”

In four other zone districts — R-6, AH, R-3 and RR — the number of issued or pending permits matches the cap.

Anyone now applying for a permit in any of the zone districts where the number of permits meets or exceeds the cap is placed on a waitlist, where there were already 52 other applicants as of April 3. Twenty-nine of those are waiting for a permit in the R-MF zone.

Available STR-C permits outside the downtown core total 29 and are spread between the MU (mixed use), SKI (ski area base), R-MFA (residential multifamily A), R-15A and R-15B zone districts, according to the STR-C summary. Garrigus added that one permit in the NC (neighborhood commercial) zone also may be available.



## STR-C Permit Availability Summary

| Zone District | Permit Cap | # Issued Permits | # Pending Permits | Total # Permits (Issued + Pending) | # Available Permits (Cap - Total) |
|---------------|------------|------------------|-------------------|------------------------------------|-----------------------------------|
| AH            | 9          | 6                | 3                 | 9                                  | 0                                 |
| MU            | 39         | 21               | 4                 | 25                                 | 14                                |
| R/MF          | 190        | 235              | 0                 | 235                                | -45                               |
| R/MFA         | 12         | 4                | 1                 | 5                                  | 7                                 |
| R-15          | 47         | 48               | 0                 | 48                                 | -1                                |
| R-15A         | 8          | 2                | 1                 | 3                                  | 5                                 |
| R-15B         | 12         | 10               | 1                 | 11                                 | 1                                 |
| R-3           | 1          | 1                | 0                 | 1                                  | 0                                 |
| R-30          | 1          | 8                | 0                 | 8                                  | -7                                |
| R-6           | 81         | 80               | 1                 | 81                                 | 0                                 |
| RR            | 2          | 2                | 0                 | 2                                  | 0                                 |
| SCI           | 2          | 8                | 0                 | 8                                  | -6                                |
| SKI           | 2          | 0                | 0                 | 0                                  | 2                                 |

**NOTE: The total number of permits may exceed the cap for zone districts until such time as they are revoked, abandoned, or otherwise eliminated. This chart is for informational purposes only and was last updated on 3/10/23.**

CREDIT: COURTESY OF THE CITY OF ASPEN

The city expects that, over time, “we will eventually get to those caps — to that 75% of what was issued — through natural attrition of permits,” Garrigus said.

Some examples of that attrition are people who are not meeting renewal deadlines and losing their permits or individuals who decide to stop doing STRs. Also, STR permits are nontransferable, so a licensed property that is sold would lose its ability to be an STR if it is in one of the eight capped-out zone districts.

Before the moratorium, there was only one city category for STR licenses, which counted a total of 1,319 permits and included all the different types of STRs. Garrigus said each condo-lodge unit was originally counted in this total number, but since the new licensing rules took effect, lodges need only one STR license for the whole property, although each unit must hold a business license from the city’s finance department. “It’s kind of like comparing apples to oranges,” Garrigus said. The city finance department has issued more than 1,100 business licenses for STRs in 2023.



Ben Wolff, general manager of Frias Properties of Aspen, talks with a insurance adjuster about a recent fire in a unit at the Chateau Eau Claire off of Cooper Ave. in Aspen, Colorado on Tuesday, April 18, 2023. (Photo by Kelsey Brunner)

## **System uncovers code violations, excludes new construction**

Pitkin County began a process in 2021 to craft rules for STRs operating in residential properties in unincorporated areas of the county. Residential-growth impacts factoring into the policy change included the issuance of 120-127 residential building permits each year from 2020 through 2022 with an annual valuation ranging from \$140 million to \$232.5 million. That is up from 83 permits issued in 2019 with a valuation of approximately \$105 million, according to Pitkin County's building permit [report](#).

The regulations that took effect Sept. 20 are based on proof of prior rental history and a tiered-fee structure that determines how often a property can be rented.

County STR applicants must submit a parking plan; affirmation of a working smoke detector, carbon monoxide detector and fire extinguisher; and proof of at least one rental night between May 11, 2017, and May 11, 2022. If a property doesn't have any rental history during this time frame, the owners cannot get an STR permit.

Pitkin County STR Administrator Jeanette Muzio said the biggest complaint they receive is from people who just purchased a home, just finished remodeling a home or added an extra accessory dwelling unit that they want to rent out as an STR, but they cannot get a license because they don't have any documented rental history.

“[This] really negates a lot of applicants,” Muzio said. “New homebuyers [for properties without a rental history] are not able to participate in the program.”

In addition to these requirements, the county set the minimum duration of each rental period to four nights.

Applicants also must pay a fee based on the property's market value multiplied by between 0.05% and 0.07%, depending on the number of nights per year they wish to rent their property.

For a \$5 million home, for example, this equates to between \$2,500 for the fee tier allowing up to 20 nights per year and \$3,500, if the property were to be rented up to 120 nights per year, which is the maximum allowed under county regulations. The fee must be paid annually to keep the permit active.

The county requires that a notice of the application be mailed to all adjoining property owners for comment 15 days prior to a determination of an application. Muzio said the whole process, including the notice period, takes about 18 days. Once licensed, STR permittees must pay applicable sales tax on their rental revenue.

The application process has turned up noncompliance issues for some applicants, Muzio said. Through the noticing process, the county has learned about unlicensed weddings that had taken place on a property or nonpermitted additions to a house, Muzio said, adding that discrepancies between the bedroom count on the permit application and the county's information have come to light.

“We're finding that people have done additions without building permits,” Muzio said. “[Applicants] are getting into a little bit of delay [with their permit] in that they're having to come up with the building permit to then have the assessor's report adjusted to that bedroom count.”

As of April 20, the county had issued 111 STR licenses since the new rules took effect. Of these, 75 are “seasonal” permits, which means that the property can be rented out between 61 and 120 nights a year, 16 permits are “limited seasonal” (valid for 21-60 rental nights), and 20 are “otherwise limited,” which means they can be rented for 20 or fewer nights. County data also show that two permits have been revoked and 27 applications have been submitted but deemed incomplete.



The number of permitted units as of April 20 represents a significant decrease from the level of STRs estimated to be in existence before the new rules.

A software program used by county staffers that identifies STR advertisements across most of the major online platforms within a given jurisdiction reported 316 STRs in unincorporated Pitkin County as of last summer. Given that 110 of those are representing lodging rooms at the Inn at Aspen, which are exempt from the county's STR program, the actual number of STRs prior to regulations dropped to 206.

Six months since the program took effect, just shy of 100 properties that participated in the STR market are not among the list of licensed STRs under the new rules. Muzio said it is likely those owners either decided to stop renting short term or moved to a long-term rental — or they may be renting without a license.

## Short-term rental licenses in Aspen and unincorporated

1K

City of Aspen    Unincorporated ..

## Enforcement a key aspect

Muzio said the county is working on the enforcement aspect of the code and utilizes a third-party monitoring system, which scrapes the top four rental websites — Airbnb, FlipKey, HomeAway and Vrbo — for unlicensed units. If staffers find a property to be in violation, the owner can be subject to a fine of up to \$1,000 each day that a property is rented without a permit.

“Each day a violation exists shall be considered a separate occurrence subject to a separate penalty ... . A graduated fine shall be imposed as part of the penalty assessment of \$100 for the first offense; \$500 for the second offense; and \$1,000 for all subsequent offenses during a license term,” according to the county code.

Muzio said many properties are offered for short-term rental via word-of-mouth or smaller, locally maintained websites. “We’re finding out more information every day about private ones, and then we add that to the list to be monitored,” she said.

The city is also monitoring STR activity online with a program that scans the internet for listings in the area. Garrigus said permittees have to include their permit number in their online listing so that they are not flagged by the software. The city also uses Aspen 311 Connect, an app and online portal where anyone can submit complaints.

Garrigus said the city hasn’t flagged anyone so far, but they’re also only starting this process. If they do find someone renting out illegally, they will send a letter notifying them, and if they’re not compliant, they may get fined at least \$500 per offense, according to the ordinance.

Muzio said county staffers have turned down three applications, while two STR license applications in the county’s rural and remote zone district have either been denied by the Pitkin County commissioners or withdrawn.



CREDIT: KELSEY BRUNNER/ASPEN JOURNALISM

“I think short-term rentals kind of took the brunt of the blame when it was really more homeowners using [more] their property here, folks moving away from maybe larger cities and able to work remotely, leasing properties here on a long-term basis,” Ben Wolff of Frias Properties said.

## Changing marketplace conditions

The most-listed primary contact among the city and county STR data set is Ben Wolff, general manager of Frias Properties, who is listed as the qualified owner’s representative for 109 properties in Aspen.

The city’s STR regulations have created stark differences in the rules, depending on which side of the street a property is on, Wolff said.

“Everything to the west of Original [Street] is considered the core or lodging zone, so you can get as many permits as you want ... . But just across the street, to the east of Original, is a residential zone, and they’re capped,” said Wolff, whose Frias Properties manages hundreds of STR units in the city. “So no new permits are going to be issued for what I think is many years.”



Wolff contends that most of the condo buildings in the R-MF zone were built with the intention of short-term renting and have been doing so for more than 50 years. But now if they change ownership, he noted, these units will lose their license and ability to host short-term rentals, given the long waitlist for new permits in the zone district. “The city was targeting these types of properties as the problem and capping the amount of permits even though there’s less rentals than ever in those buildings,” Wolff said, adding that he is seeing more long-term and owner occupancy in those multifamily condo buildings now.

“I think short-term rentals kind of took the brunt of the blame when it was really more homeowners using [more] their property here, folks moving away from maybe larger cities and able to work remotely, leasing properties here on a long-term basis, and then also plenty of short-term rentals like there always have been,” Wolff said.

Aspen appraiser Randy Gold said that short-term rentals are, in part, responsible for increased housing costs, but they can’t be blamed entirely. Gold said the rise in real estate values has been increasing significantly over the past 24 to 36 months, encouraging people who may have been renting to sell.

Gold said he hasn’t seen any impacts from the regulations on real estate values. “It’s just too soon to tell,” he said.

Gold and Wolff said tightening STR regulations provides an incentive to lease properties out for 30 days at a time, so they are counted as long-term rentals.

“Maybe they have somebody sign a 30-day lease, when who knows if they’re staying there for 30 days or not,” Wolff said. “And then they don’t pay any tax. There’s no control. There’s no regulations. And it’s not illegal ... . When you make it overly burdensome on somebody to come here, on somebody to be able to rent their free market property, people find workarounds.”

Wolff said he doesn’t know how the additional 10% tax on STRs, effective May 1, will impact the market.

“Are [guests] going to book somewhere else? Are they going to not come at all? Is occupancy going to be down? Therefore, is revenue going to be down? We don’t quite know that yet because it hasn’t even gone into effect yet,” he said. “So we’re hopeful that it doesn’t, but we think it will have at least a bit of an impact.”

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