

ORDINANCE NO. 912

AN ORDINANCE RELATING TO FLOOD DAMAGE PREVENTION, AMENDING ORDINANCE NO. 775 WHICH WAS AN ORDINANCE RELATING TO FLOOD PLAIN MANAGEMENT; ESTABLISHING AND AUTHORIZING CERTAIN CONDITIONS AND REGULATIONS WITHIN SPECIALLY DESIGNATED AREAS IN COMPLIANCE WITH THE NATIONAL FLOOD INSURANCE PROGRAM AND THE REGULATIONS PROMULGATED BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GILLETTE, WYOMING:

SECTION ONE. Ordinance 775 of the City of Gillette, Wyoming, is amended in its entirety and shall henceforth read as follows:

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

SECTION A. Statutory Authorization

The Legislature of the State of Wyoming has in Wyo. Stat. 15.1-83 & 85, (1957) delegated the responsibility to local governmental units to adopt regulations, including zoning regulations designed to promote the public health, safety, and general welfare of its citizenry. Based on that delegation the City Council of the City of Gillette, Wyoming, does enact this ordinance according to the facts found, statement of purpose and objectives listed and enumerated hereinafter.

SECTION B. Findings of Fact

- (1) The flood hazard areas of the City of Gillette are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extra-ordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in flood plains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise protected from flood damages.

SECTION C. Statement of Purpose

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion or in flood heights or velocities.
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- (3) Control the alteration of natural flood plains, stream channels, the natural protective barriers, which are involved in the accomodation of flood waters.

(4) Control filling, grading, dredging and other development which may increase erosion or flood damage.

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

SECTION D. Objectives

The objectives of this ordinance are:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood plains;
- (6) To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and,
- (7) To insure that potential home buyers are notified that property is in a flood area.

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ARTICLE 2. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

Appeal means a request for a review of the City Engineer's interpretation of any provision of this ordinance or a request for a variance. "Area of shallow flooding" means a designated AO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

"Existing mobile home park or mobile home subdivision" means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this ordinance.

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"Expansion to an existing mobile home park or mobile home subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Hazard Boundary Map" (FHBM) means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of the areas of special flood hazards have been designated as Zone A.

"Flood Insurance Rate Map" (FIRM) means an official map of a community, on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Insurance Administration. The report contains flood profiles, as well as the Flood Hazard Boundary-Floodway Map and the water surface elevation of the base flood.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Habitable floor" means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor".

"Mean Sea Level" means the average height of the sea for all stages of the tide.

"Mobile home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

"New construction" means structure for which the "start of construction" commenced on or after the effective date of this ordinance.

"New mobile home park or mobile home subdivision" means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of this ordinance.

★ "Start of construction" means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile

homes not within a mobile home park or mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

"Structure" means a walled and roofed building that is principally above ground, as well as a mobile home.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places.

"Variance" is a grant of relief to a person from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

ARTICLE 3. GENERAL PROVISIONS

SECTION A. Lands to Which This Ordinance Applies

This ordinance shall apply to all areas of special flood hazards within jurisdiction of the City of Gillette.

SECTION B. Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Federal Insurance Administration through a scientific and engineering report entitled "The Flood Insurance Study for the City of Gillette", dated March 1977, with accompanying Flood Insurance Rate Maps and Flood Boundary and Floodway Maps and any revision thereto are hereby adopted by reference and declared to be a part of this ordinance.

SECTION C. Establishment of Development Permit

A Development Permit shall be required in conformance with the provisions of this ordinance.

SECTION D. Compliance

No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. Abrogation and Greater Restrictions

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

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SECTION F. Interpretation

In the interpretation and application of this ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION G. Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Gillette or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

ARTICLE 4. ADMINISTRATION

SECTION A. Designation of City Engineer

The City Engineer is hereby appointed to administer and implement the provisions of this ordinance.

SECTION B. Duties and Responsibilities of the City Engineer

Duties of the City Engineer shall include, but not be limited to:

- (1) Review all development permits to assure that the permit requirements of this ordinance have been satisfied.
- (2) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, state or local governmental agencies from which prior approval is required.
- (3) Notify adjacent communities and the Wyoming Disaster and Civil Defense Agency, State of Wyoming prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Federal Insurance Administration.
- (4) Assure that maintenance is provided within the altered or relocated portion of said water course so that the flood carrying capacity is not diminished.
- (5) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
- (6) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood proofed.
- (7) When floodproofing is utilized for a particular structure the City Engineer shall obtain certification from a registered professional engineer or architect.
- (8) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the City Engineer shall make the necessary interpretation.

The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

(9) When base flood elevation data has not been provided in accordance with Article 3, Section B, then the City Engineer shall obtain, review, and reasonably utilize any base flood elevation data available from a Federal, state or other source, in order to administer the provisions of Article 5.

(10) All records pertaining to the provisions of this ordinance shall be maintained in the office of the City Engineer and shall be open for public inspection.

SECTION C. Permit Procedures

Application for a Development Permit shall be made to the City Engineer on forms furnished by him and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill storage of materials; drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.

(2) Elevation in relation to mean sea level to which any non-residential structure has been floodproofed.

(3) Provide a certificate from a registered professional engineer or architect that the non-residential floodproofed structure meets the floodproofing criteria in Article 5, Section B (2).

(4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

SECTION D. Variances Procedures

(1) The Board of Adjustment as established by the City of Gillette shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(2) The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the City Engineer in the enforcement or administration of this ordinance.

(3) Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the District Court for the Sixth Judicial District in and for Campbell County, Wyoming, as provided in Wyo. Stat. 15.1-89 (n) (1957).

(4) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

(5) In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

- (a) the danger that materials may be swept onto other lands to the injury of others;
- (b) the danger to life and property due to flooding or erosion damage;
- (c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on individual owner;
- (d) the importance of the services provided by the proposed facility to the community;
- (e) the necessity to the facility of a waterfront location, where applicable;
- (f) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (g) the compatibility of the proposed use with existing and anticipated development;
- (h) the relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
- (i) the safety of access to the property in times of flood for ordinary and emergency vehicles;
- (j) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
- (k) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (l) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a-k) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(6) Upon consideration of the factors listed above and the purposes of this ordinance, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

(7) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(8) Conditions for variances

- (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(b) Variances shall only be issued (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(d) The City Engineer shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. General Standards

In all areas of special flood hazards the following provisions are required:

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (3) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (4) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (5) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and,
- (6) Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (7) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
- (8) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

SECTION B. Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Article 3, Section B or Article 4, Section B (9), the following provisions are required.

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(1) Residential Construction - New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

(2) Non-residential Construction - New or substantial improvement of any commercial, industrial or other non-residential basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood level the structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Article 4, Section C (3).

(3) Mobile Homes

(a) No mobile home shall be placed in floodway except in an existing mobile home park or existing mobile home subdivision.

(b) All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

(i) over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side;

(ii) frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than 50 feet long requiring four additional ties per side;

(iii) all components of the anchoring system be capable of carrying a force of 4,800 pounds, and,

(iv) any additions to the mobile home be similarly anchored.

(c) Mobile homes shall be anchored in accordance with Article 5, Section B (3) (6).

(d) For new mobile home parks and mobile home subdivisions; for expansions to existing mobile home subdivisions; for existing mobile home parks and mobile home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50 percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for mobile homes not placed in a mobile home park or mobile home subdivision, require that:

(i) stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level;

(ii) adequate surface drainage and access for a hauler are provided; and,

(iii) In the instance of elevation of pilings, that lots are large enough to permit steps, piling foundations are placed in stable soil no more than ten feet apart, and reinforcement is provided for pilings more than six feet above the ground level.

(e) An evacuation plan indicating alternate vehicular access and escape routes shall be filed with the City Engineer for each mobile home subdivision located within Zone A, as designated on the FIRM, prepared for the City of Gillette. This plan shall be prepared according to the directions of the City Engineer and shall be made available to concerned Federal and local agencies.

(4) Floodways - Located within areas of special flood hazard established in Article 3, Section B are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(a) Prohibits encroachments, including fill, new construction, substantial improvements and other developments unless certification by a professional registered engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge.

(b) If Article 5, Section B (4) (a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.

(c) Prohibit the placement of any mobile homes, except in an existing mobile home park or existing mobile home subdivision.

SECTION C. Standards for Areas of Shallow Flooding (AO Zones)

Located within the areas of special flood hazard established in Article 3, Section B are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(1) All new construction and substantial improvements of residential structures have the lowest floor, including basement, elevated above the crown of the nearest street to or above the depth number specified on the community's FIRM.

(2) All new construction and substantial improvements of non-residential structures shall:

(i) have the lowest floor, including basement, elevated above the crown of the nearest street to or above the depth number specified on the FIRM, or

(ii) together with attendant utility and sanitary facilities be completely floodproofed to or above the level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

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SECTION D. Standards for Subdivision Proposals

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of 50 lots or 5 acres.

ARTICLE 6. NON-CONFORMING USE

(1) A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:

(a) No such use or substantial improvement of that use shall be expanded, changed, enlarged, or altered in any way which increases its non-conformity.

(b) If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the City Engineer in writing of instances of non-conforming uses where utility services have been discontinued for a period of 12 months.

(c) Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as non-conforming uses.

(2) If any non-conforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 per cent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

ARTICLE 7. PENALTIES FOR VIOLATION


Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$200.00 and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the City of Gillette or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 8. AMENDMENTS

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Gillette. The regulations of this ordinance are in compliance with the National Flood Insurance Program Regulations as published in the Federal Register, Volume 41, Number 201, dated October 26, 1976.

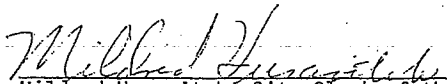
PASSED, APPROVED AND ADOPTED This 19th day of December, 1977.



Michael B. Enzi, Mayor of the City of
Gillette, Wyoming

(S E A L)

ATTEST:



Mildred Huravitch, City Clerk of the
City of Gillette, Wyoming

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