

SENATE FILE NO. SF0033

Public easements-abandonment.

Sponsored by: Senator(s) Martin, Cooper and Ross and
Representative(s) Lubnau

A BILL

for

1 AN ACT relating to public easements; providing a process
2 for abandonment of easements by local governments as
3 specified; and providing for an effective date.

4

5 *Be It Enacted by the Legislature of the State of Wyoming:*

6

7 **Section 1.** W.S. 16-12-101 and 16-12-102 are created
8 to read:

9

10

CHAPTER 12

11

ABANDONMENT OF PUBLIC EASEMENTS

12

13 **16-12-101. Abandonment of public easement;**
14 **authorization; definition.**

15

1 (a) The governing body of any city or town may
2 abandon any public easement granted to the public within
3 the incorporated boundaries of the city or town in the
4 manner provided in this chapter.

5

6 (b) The governing body of any county may abandon any
7 public easement granted to the public in an unincorporated
8 area of the county in the manner provided in this chapter.
9 The abandonment of a public easement under this chapter
10 shall not impair the right of any public utility to
11 continue to operate and maintain utility facilities located
12 within the public easement.

13

14 (c) As used in this chapter, "governing body" means
15 as defined in W.S. 15-1-101(a)(vi) and includes the board
16 of county commissioners for public easements located in
17 unincorporated areas of the county.

18

19 **16-12-102. Abandonment of public easement; hearing**
20 **notice; objections; how conducted; order; record.**

21

22 (a) If the governing body of any city or town, for
23 public easements within the incorporated area of the city
24 or town, or the governing body of the county, for public

1 easements in unincorporated areas in the county, considers
2 it to be in the public interest to abandon any easement
3 within its jurisdiction, the governing body shall set a
4 time and place for a public hearing upon the proposal to
5 abandon the easement. After providing notice to the public
6 service commission, notice of the hearing shall be
7 published for three (3) consecutive weeks prior to the
8 hearing in a newspaper published in the county in which the
9 public easement is located, or if there is no newspaper
10 published in the county in which the easement is located,
11 then in a newspaper published in this state and of general
12 circulation in that county. The notice shall contain a
13 statement of the time, place and purpose of the hearing and
14 the reason for the proposed abandonment. Any resident may
15 appear at the hearing and offer evidence in support or
16 opposition of the proposed abandonment. If the governing
17 body of the city, town or county where the public easement
18 is located finds the proposed abandonment is in the best
19 interests of the city, town or county and its residents,
20 the governing body may order the public easement abandoned
21 by ordinance or resolution.

22

23 (b) If no substantial use has been made of a public
24 easement, and if, for a period of at least ten (10)

1 consecutive years, the public easement has not been
2 maintained by the city, town or county where the easement
3 is located in a manner to allow use of the public easement
4 and to protect the health or safety of residents in the
5 city, town or county where the easement is located, it
6 shall be deemed that the governing body of the city or
7 town, for public easements located within the incorporated
8 boundaries of the city or town, or the governing body of a
9 county, for easements located in unincorporated areas of
10 the county, has intended to abandon the public easement.
11 The owner of the servient estate may notify the governing
12 body of the jurisdiction where the easement is located of
13 the expiration of ten (10) year period of nonuse or
14 maintenance with a demand that the governing body initiate
15 the hearing process specified in subsection (a) of this
16 section. The governing body shall, upon verifying the
17 accuracy of the statements contained in the notice and
18 demand, initiate the hearing process. The owner of the
19 servient estate who filed the demand and notice under this
20 subsection may appear at the hearing in support of his
21 demand and notice. Any resident of the city, town or
22 county where the public easement is located, having filed
23 his objections to the demand for abandonment, may appear at
24 the hearing to protest the abandonment and provide evidence

1 demonstrating that there had been substantial use and
2 maintenance of the public easement during the ten (10)
3 consecutive year period specified in the notice and demand.
4 If the hearing is conducted by the governing body of the
5 city or town for a public easement located within the
6 incorporated area of the city or town, a duly authorized
7 representative of the county may appear at the hearing to
8 protest the abandonment. If the governing body finds that
9 there has been no substantial use of the public easement,
10 and the public easement has not been maintained by the
11 city, town or county where the easement is located for a
12 period of at least ten (10) consecutive years, it may order
13 the public easement abandoned by ordinance or resolution.

14

15 (c) The record of the proceedings of the public
16 hearing, including the findings of the governing body shall
17 be made part of the minutes of the regular or special
18 meeting of the governing body at which the hearing was
19 conducted and the final order shall be recorded in the real
20 estate records of the county clerk and recorder's office in
21 which the abandoned easement is located.

22

1 **Section 2.** This act is effective July 1, 2009.

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(END)