

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 through 16-12-103 are
8 created 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

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

14

15 **16-12-102. Abandonment of public easement; hearing**
16 **notice; objections; how conducted; order; record.**

17

18 (a) If the governing body of any city or town, for
19 public easements within the incorporated area of the city
20 or town, or the governing body of the county, for public
21 easements in unincorporated areas in the county, considers
22 it to be in the public interest to abandon any easement
23 within its jurisdiction, the governing body shall set a
24 time and place for a public hearing upon the proposal to

1 abandon the easement. Notice of the hearing shall be
2 published for three (3) consecutive weeks prior to the
3 hearing in a newspaper published in the county in which the
4 public easement is located, or if there is no newspaper
5 published in the county in which the easement is located,
6 then in a newspaper published in this state and of general
7 circulation in that county. The notice shall contain a
8 statement of the time, place and purpose of the hearing,
9 the reason for the proposed abandonment and shall provide
10 that any person objecting to the proposed abandonment shall
11 file his objections in writing at least ten (10) days
12 before the time of the hearing. The objection shall be
13 filed with the city, town or county clerk of the
14 jurisdiction where the public easement proposed for
15 abandonment is located. Any resident of the city, town or
16 county where the public easement is located, having filed
17 his objections to the proposed abandonment, may appear at
18 the hearing to protest the proposed abandonment. Any other
19 resident may appear at the hearing and offer evidence in
20 support of the proposed abandonment. If the governing body
21 of the city, town or county where the public easement is
22 located finds the proposed abandonment is in the best
23 interests of the city, town or county and its residents,

1 the governing body may order the public easement abandoned
2 by ordinance or resolution.

3

4 (b) If no substantial use has been made of a public
5 easement, and if, for a period of at least ten (10)
6 consecutive years, the public easement has not been
7 maintained by the city, town or county where the easement
8 is located in a manner to allow use of the public easement
9 and to protect the health or safety of residents in the
10 city, town or county where the easement is located, it
11 shall be deemed that the governing body of the city or
12 town, for public easements located within the incorporated
13 boundaries of the city or town, or the governing body of a
14 county, for easements located in unincorporated areas of
15 the county, has intended to abandon the public easement.
16 The owner of the servient estate may notify the governing
17 body of the jurisdiction where the easement is located of
18 the expiration of ten (10) year period of nonuse or
19 maintenance with a demand that the governing body initiate
20 the hearing process specified in subsection (a) of this
21 section. The governing body shall, upon verifying the
22 accuracy of the statements contained in the notice and
23 demand, initiate the hearing process. The owner of the
24 servient estate who filed the demand and notice under this

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

20

21 (c) The record of the proceedings of the public
22 hearing, including the findings of the governing body shall
23 be made part of the minutes of the regular or special
24 meeting of the governing body at which the hearing was

1 conducted and the final order shall be recorded in the real
2 estate records of the county clerk and recorder's office in
3 which the abandoned easement is located.

4

5 **16-12-103. Abandonment of public easement; cessation**
6 **of duties.**

7

8 Upon the passage of an ordinance or resolution abandoning
9 the public easement, the city, town or county is relieved
10 of all obligations to the public to maintain the easement
11 for public use and the public easement shall be terminated.

12

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

14

15 (END)