HB 561 Three factors needed for criteria in creation and operation of Urban renewal

EXHIBIT 10
DATE 3/18/11
HB 561

Amended out "In need of urban renewal"

Amend out Section 1 to Section 3

Section 4 Resolution must have 3 characteristics defined in 7-15-4206 (page 2 line 16 to page 3 line 3)

Amend out Sections 5 to Section 13

HOUSE BILL NO. 561

INTRODUCED BY E. ARNTZEN

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING ~~TERMINOLOGY AND~~ THE CRITERIA FOR ~~VARIOUS~~ FACTORS INVOLVED IN THE CREATION AND OPERATION OF URBAN RENEWAL DISTRICTS; ~~REPLACING THE TERM "BLIGHTED AREA" WITH "AREA IN NEED OF URBAN RENEWAL"; REMOVING OR MODIFYING LANGUAGE THAT UNNECESSARILY OR DEROGATORILY LABELS AN AREA IN NEED OF URBAN RENEWAL~~; REQUIRING THE FINDINGS BY A MUNICIPALITY THAT CERTAIN URBAN RENEWAL CONDITIONS EXIST AND; AMENDING ~~SECTIONS~~ SECTION ~~7-15-4202, 7-15-4206, 7-15-4209~~, 7-15-4210, ~~7-15-4216, 7-15-4233, 7-15-4251, 7-15-4252, 7-15-4259, 7-15-4262, 7-15-4281, AND 70-30-102, MCA; AND REPEALING SECTION 7-15-4203, MCA~~."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~**Section 1.** Section 7-15-4202, MCA, is amended to read:~~

~~**"7-15-4202. Existence of blighted areas in need of urban renewal and resulting problems -- statement of policy.** It is hereby found and declared:~~

~~(1) that blighted areas which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state, exist in municipalities of the state;~~

~~(2) that the The existence of such areas in need of urban renewal:~~

~~(a)(1) contributes substantially and increasingly to the spread of disease and crime and to the stagnation or depreciation of property values;~~

~~(b)(2) constitutes an economic and social liability;~~

~~(c)(3) substantially impairs or arrests the sound growth of municipalities;~~

~~(d)(4) retards the provision of housing accommodations; and~~

~~(e)(5) aggravates traffic problems.; and~~

~~(f) substantially impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities; and~~

(3) that the prevention and elimination of such areas is a matter of state policy and state concern in order that the state and its municipalities shall not continue to be endangered by areas which are focal centers of disease, promote juvenile delinquency, are conducive to fires, are difficult to police and to provide police protection for, and, while contributing little to the tax income of the state and its municipalities, consume an excessive proportion of its revenues because of the extra services required for police, fire, accident, hospitalization, and other forms of public protection, services, and facilities."

Section 2. Section 7-15-4206, MCA, is amended to read:

"**7-15-4206. Definitions.** The following terms, wherever used or referred to in part 43 or this part, have the following meanings unless a different meaning is clearly indicated by the context:

(1) "Agency" or "urban renewal agency" means a public agency created by 7-15-4232.

(2) "Blighted area" "Area in need of urban renewal" means an area that is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime, that substantially contributes to the stagnation or depreciation of property values, aggravates traffic problems, impairs or arrests the sound growth of the city or its environs, that retards the provision of housing accommodations, or that constitutes an economic or social liability or is detrimental or constitutes a menace to the public health, safety, welfare, and morals in its present condition and use, by reason of:

(a) the substantial physical dilapidation, deterioration, age obsolescence, or defective construction, material, and arrangement of buildings or improvements, whether residential or nonresidential;

(b) inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality;

(c)(a) inappropriate or mixed uses of land or buildings;

(d)(b) high density of population and overcrowding;

(e)(c) defective or inadequate street layout;

(f)(d) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(g)(e) excessive land coverage;

(h) unsanitary or unsafe conditions;

(i) deterioration of site;

(j) diversity of ownership;

(k)(f) tax or special assessment delinquency exceeding the fair value of the land;

~~(l)~~(g) ~~defective or unusual conditions of title;~~

~~(m)~~(h) ~~improper subdivision or obsolete platting;~~

~~(n)~~(i) ~~the existence of conditions that endanger life or property by fire or other causes~~ constitute an economic liability; or

~~(o)~~(j) ~~any combination of the factors listed in this subsection (2).~~

~~(3) "Bonds" means any bonds, notes, or debentures, including refunding obligations, authorized to be issued pursuant to part 43 or this part.~~

~~(4) "Clerk" means the clerk or other official of the municipality who is the custodian of the official records of the municipality.~~

~~(5) "Federal government" means the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.~~

~~(6) "Local governing body" means the council or other legislative body charged with governing the municipality.~~

~~(7) "Mayor" means the chief executive of a city or town.~~

~~(8) "Municipality" means any incorporated city or town in the state.~~

~~(9) "Neighborhood development program" means the yearly activities or undertakings of a municipality in an urban renewal area or areas if the municipality elects to undertake activities on an annual increment basis.~~

~~(10) "Obligee" means any bondholder or agent or trustee for any bondholder or lessor conveying to the municipality property used in connection with an urban renewal project or any assignee or assignees of the lessor's interest or any part of the interest and the federal government when it is a party to any contract with the municipality.~~

~~(11) "Person" means any individual, firm, partnership, corporation, company, association, joint-stock association, or school district and includes any trustee, receiver, assignee, or other person acting in a similar representative capacity.~~

~~(12) "Public body" means the state or any municipality, township, board, commission, district, or other subdivision or public body of the state.~~

~~(13) "Public officer" means any officer who is in charge of any department or branch of the government of the municipality relating to health, fire, building regulations, or other activities concerning dwellings in the municipality.~~

~~(14) "Public use" means:~~

~~(a) a public use enumerated in 70-30-102; or~~

~~(b) a project financed by the method provided for in 7-15-4288.~~

~~(15) "Real property" means all lands, including improvements and fixtures on the land, all property of any nature appurtenant to the land or used in connection with the land, and every estate, interest, right, and use, legal or equitable, in the land, including terms for years and liens by way of judgment, mortgage, or otherwise.~~

~~(16) "Redevelopment" may include:~~

~~(a) acquisition of a blighted~~ an ~~area~~ ~~in need of urban renewal~~ ~~or~~ a ~~portion of the area;~~

~~(b) demolition and removal of buildings and improvements;~~

~~(c) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions of this part in accordance with the urban renewal plan; and~~

~~(d) making the land available for development or redevelopment by private enterprise or public agencies, including sale, initial leasing, or retention by the municipality itself, at its fair value for uses in accordance with the urban renewal plan. If the property is condemned pursuant to Title 70, chapter 30, the private enterprise or public agencies may not develop the condemned area in a way that is not for a public use.~~

~~(17) (a) "Rehabilitation" may include the restoration and renewal of a blighted~~ an ~~area or portion of the area~~ ~~in need of urban renewal~~ ~~in accordance with an urban renewal plan by:~~

~~(i) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements;~~

~~(ii) acquisition of real property and demolition or removal of buildings and improvements on the property when necessary to eliminate unhealthful, unsanitary, or unsafe conditions, to lessen density, to reduce traffic hazards, to eliminate obsolete or other uses detrimental to the public welfare, to otherwise remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities;~~

~~(iii) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions of this part; and~~

~~(iv) subject to 7-15-4259(4)~~(5), ~~the disposition of any property acquired in the urban renewal area, including sale, initial leasing, or retention by the municipality itself, at its fair value for uses in accordance with the urban renewal plan.~~

(b) Rehabilitation may not include the development of the condemned area in a way that is not for a public use if the property is condemned pursuant to Title 70, chapter 30.

(18) "Urban renewal area" means a blighted an area in need of urban renewal that the local governing body designates as appropriate for an urban renewal project or projects.

(19) "Urban renewal plan" means a plan for one or more urban renewal areas or for an urban renewal project. The plan:

(a) must conform to the growth policy if one has been adopted pursuant to Title 76, chapter 1; and

(b) must be sufficiently complete to indicate, on a yearly basis or otherwise:

(i) any land acquisition, demolition, and removal of structures;, redevelopment;, improvements;, and rehabilitation that is proposed to be carried out in the urban renewal area;

(ii) zoning and planning changes, if any, including changes to the growth policy if one has been adopted pursuant to Title 76, chapter 1;

(iii) land uses, maximum densities, building requirements; and

(iv) the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

(20) (a) "Urban renewal project" may include undertakings or activities of a municipality in an urban renewal area for the elimination and for the prevention of the development or spread of blight the improvement of the area and may involve redevelopment in an urban renewal area, rehabilitation or conservation in an urban renewal area, or any combination or part of redevelopment, rehabilitation, or conservation in accordance with an urban renewal plan.

(b) An urban renewal project may not include using property that was condemned pursuant to Title 70, chapter 30, for anything other than a public use."

Section 3. Section 7-15-4209, MCA, is amended to read:

"7-15-4209. Development of workable urban renewal program. (1) A municipality, for the purposes of this part and part 43 and this part, may formulate a workable program for utilizing appropriate private and public resources:

(a) to eliminate and prevent the development or spread of blighted areas;

(b)(a) to encourage needed urban rehabilitation;

(c)(b) to provide for the redevelopment of such areas in need of urban renewal; or

(d)(c) to undertake such of the aforesaid those activities or other feasible municipal activities as may be that are suitably employed to achieve the objectives of such a workable program.

(2) Such The workable program may include, without limitation, provision for:

(a) the prevention of the spread of blight into areas of the municipality which are free from blight through diligent enforcement of housing, zoning, and occupancy controls and standards;

(b) the rehabilitation of blighted areas or portions thereof in need of urban renewal by:

(i) replanning, removing congestion, and providing parks, playgrounds, and other public improvements; by

(ii) encouraging voluntary rehabilitation; and by

(iii) compelling the repair and rehabilitation of deteriorated or deteriorating structures; and

(c) the clearance and redevelopment of blighted areas or portions thereof in need of urban renewal."

Section 4 1. Section 7-15-4210, MCA, is amended to read:

"7-15-4210. Resolution of necessity required to utilize provisions of part. No A municipality shall may not exercise any of the powers hereafter conferred upon authorized municipalities by this part and part 43 and this part until after its local governing body shall have has adopted a resolution finding that:

(1) one or more blighted areas exist in such an area in need of urban renewal exists in the one or more blighted areas exist in the municipality by finding that at least three of the characteristics established factors listed in 7-15-4202 7-15-4206(2) apply to the area or a part of the area; and

(2) the rehabilitation, redevelopment, or a combination thereof of such both of an area in need of urban renewal or areas is or areas are necessary in the interest of the public health, safety, morals, or welfare of the residents of such the municipality."

Section 5 2. Section 7-15-4216, MCA, is amended to read:

"7-15-4216. Requirements for approval of urban renewal plans and projects. (1) The local governing body shall may not approve an urban renewal plan until a comprehensive plan or parts of such the plan for an area which that would include an urban renewal area for the municipality have been prepared.

(2) A municipality shall may not approve an urban renewal project for an urban renewal area unless the local governing body has by resolution determined such the area to be a blighted an area in need of urban renewal and designated such the area as appropriate for an urban renewal project.

(3) An urban renewal plan adopted after July 1, 1979, must be approved by ordinance.

(4) All urban renewal plans approved by resolution prior to May 8, 1979, are hereby validated valid."

Section 6 3. Section 7-15-4233, MCA, is amended to read:

"7-15-4233. Powers which that may be exercised by urban renewal agency or authorized department. (1) In the event the If a local governing body makes such a determination that an area is in need of urban renewal, such the body may authorize the urban renewal agency or department or other officers of the municipality to exercise any of the following urban renewal project powers:

(a) to formulate and coordinate a workable program as specified in 7-15-4209;

(b) to prepare urban renewal plans;

(c) to prepare recommended modifications to an urban renewal project plan;

(d) to undertake and carry out urban renewal projects as required by the local governing body;

(e) to make and execute contracts as specified in 7-15-4251, 7-15-4254, 7-15-4255, and 7-15-4281, with the exception of contracts for the purchase or sale of real or personal property;

(f) to disseminate blight clearance and urban renewal information;

(g) to exercise the powers prescribed by 7-15-4255, except that the power to agree to conditions for federal financial assistance and imposed pursuant to federal law relating to salaries and wages shall must be reserved to the local governing body;

(h) to enter any building or property in any urban renewal area in order to make surveys and appraisals in the manner specified in 7-15-4257;

(i) to improve, clear, or prepare for redevelopment any real or personal property in an urban renewal area;

(j) to insure real or personal property as provided in 7-15-4258;

(k) to effectuate the plans provided for in 7-15-4254;

(l) to prepare plans for the relocation of families displaced from an urban renewal area and to coordinate public and private agencies in such the relocation;

(m) to prepare plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements;

(n) to conduct appraisals, title searches, surveys, studies, and other preliminary plans and work necessary to prepare for the undertaking of urban renewal projects;

(o) to negotiate for the acquisition of land;

(p) to study the closing, vacating, planning, or replanning of streets, roads, sidewalks, ways, or other places and to make recommendations with respect thereto to the study;

(q) to organize, coordinate, and direct the administration of the provisions of this part and part 43 and this part;

(r) to perform such those duties as that the local governing body may direct so as to make the that are necessary arrangements for the exercise of the powers and performance of the duties and responsibilities entrusted to the local governing body.

(2) Any powers granted in this part or part 43 or this part that are not included in subsection (1) as powers of the urban renewal agency or a department or are not delegated to other officers of a municipality in lieu thereof may only be exercised only by the local governing body or other officers, boards, and commissions as provided under existing law."

Section 7 4. Section 7-15-4251, MCA, is amended to read:

"7-15-4251. General powers of municipalities in connection with urban renewal. Every A municipality shall have all the power necessary or convenient may:

(1) to carry out and effectuate the purposes and provisions of this part and part 43 and this part;

(2) to undertake and carry out urban renewal projects within the municipality, to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this part and part 43 and this part, and to disseminate blight clearance and urban renewal information;

(3) to organize, coordinate, and direct, within the municipality, the administration of the provisions of this part and part 43 as they apply to such municipality in order that the objective of remedying blighted areas and preventing the causes thereof within such municipality may be most effectively promoted and achieved and to establish such new office or offices of the municipality or to reorganize existing offices in order to carry out such purpose most and this part effectively;

(4) to exercise all or any part or combination of powers granted in this part or part 43 or this part."

Section 8 5. Section 7-15-4252, MCA, is amended to read:

"7-15-4252. Prevention and elimination of urban blight Urban renewal activities -- federal funds. The A municipality is authorized to may develop, test, and report methods and techniques and carry out demonstrations and other activities for the prevention and the elimination of urban blight renewal

and to may apply for, accept, and utilize grants of funds from the federal government for such those purposes."

Section 9 6. Section 7-15-4259, MCA, is amended to read:

"7-15-4259. Exercise of power of eminent domain. (1) After the adoption by the local governing body of a resolution declaring that the acquisition of the real property described in the resolution is necessary for an urban renewal project under this part, a municipality may acquire by condemnation, as provided in Title 70, chapter 30, any interest in real property that it considers necessary for urban renewal.

(2) Condemnation for urban renewal of blighted areas, as defined in 7-15-4206(2)(a), (2)(h), (2)(k), or (2)(n), the following property is a public use, and property:

(a) property with substantial physical dilapidation, deterioration, age obsolescence, or defective construction, material, and arrangement of buildings or improvements, whether residential or nonresidential; and

(b) property with conditions that endanger life or property by presenting a fire hazard or other dangers.

(3) Property already devoted to any other public use or acquired by the owner or the owner's predecessor in interest by eminent domain may be condemned for the purposes of this part.

(3)(4) The award of compensation for real property taken for an urban renewal project may not be increased by reason of any increase in the value of the real property caused by the assembly, clearance, or reconstruction or proposed assembly, clearance, or reconstruction in the project area. An allowance may not be made for the improvements begun on real property after notice to the owner of the property of the institution of proceedings to condemn the property. Evidence is admissible bearing upon the unsanitary, unsafe, or substandard condition of the premises or the unlawful use of the premises.

(4)(5) A city or town may not serve as a pass-through entity by using its power of eminent domain, as provided in Title 70, chapter 30, to obtain property with the intent to sell, lease, or provide the property to a private entity."

Section 10 7. Section 7-15-4262, MCA, is amended to read:

"7-15-4262. Disposal of municipal property in urban renewal areas. (1) A municipality may:

~~(a) sell, lease, or otherwise transfer real property in an urban renewal area or any interest in real property acquired by it for an urban renewal project for residential, recreational, commercial, industrial, or other uses or for public use and enter into contracts with respect to the real property; or~~

~~(b) retain the property or interest only for parks and recreation, education, public transportation, public safety, health, highways, streets and alleys, administrative buildings, or civic centers, in accordance with the urban renewal project plan and subject to any covenants, conditions, and restrictions, including covenants running with the land, that it considers necessary or desirable to assist in preventing the development or spread of blighted areas or otherwise to carry out the purposes of this part.~~

~~(2) The sale, lease, other transfer, or retention and any agreement relating the real property may be made only after the approval of the urban renewal plan by the local governing body.~~

~~(3) Except as provided in subsection (5), the real property or interest must be sold, leased, otherwise transferred, or retained at not less than its fair value for uses in accordance with the urban renewal plan. In determining the fair value of real property for uses in accordance with the urban renewal plan, a municipality shall take into account and give consideration to the:~~

~~(a) uses provided in the plan;~~

~~(b) restrictions upon and the covenants, conditions, and obligations assumed by the purchaser or lessee or by the municipality retaining the property; and~~

~~(c) objectives of the plan for the prevention of the recurrence of blighted areas.~~

~~(4) Real property acquired by a municipality which, in accordance with the provisions of the urban renewal plan, is to be transferred must be transferred as rapidly as feasible, in the public interest, consistent with the carrying out of the provisions of the urban renewal plan.~~

~~(5) A transfer under this section may include a donation of the land or a sale of the land at a reduced price to a corporation for the purpose of constructing:~~

~~(a) a multifamily housing development operated by the corporation for low-income housing;~~

~~(b) single-family houses. Upon completion of a house, the corporation shall sell the property to a low-income person who meets the eligibility requirements of the corporation. Once the sale is completed, the property becomes subject to taxation.~~

~~(c) improvements to real property or modifying, altering, or repairing improvements to real property that will enable the corporation, subject to the restrictions of Article X, section 6, of the Montana constitution, to pursue purposes specified in the articles of incorporation of the corporation, including the sale, lease, rental, or other use of the donated land and improvements.~~

(6) Land that is transferred pursuant to subsection (5) must be used to permanently provide low-income housing. The transfer of the property may contain a reversionary clause to reflect this condition."

Section 11 8. Section 7-15-4281, MCA, is amended to read:

"**7-15-4281. Financial authority in connection with urban renewal.** (1) A municipality shall have has the power to:

(a) borrow money and apply for and accept advances, loans, grants, contributions, and any other form of financial assistance for the purposes of this part and enter into and carry out contracts in connection with the financial assistance from:

(i) the federal government;

(ii) the state, a county, or any other public body; or

(iii) any sources, public or private;

(b) (i) appropriate funds and make expenditures as may be necessary to carry out the purposes of this part; and

(ii) subject to 15-10-420 and in accordance with state law, levy taxes and assessments for the purposes of this part;

(c) invest any urban renewal project funds held in reserves or sinking funds or any funds that are not required for immediate disbursement in property or securities in which mutual savings banks may legally invest funds subject to their control;

(d) adopt, in accordance with state law, annual budgets for the operation of an urban renewal agency, department, or office vested with urban renewal project powers under 7-15-4231;

(e) enter, in accordance with state law, enter into agreements, which may extend over any period, with agencies or departments vested with urban renewal project powers under 7-15-4231 respecting action to be taken by the municipality pursuant to any of the powers granted by part 43 or this part;

(f) close, vacate, plan, or replan streets, roads, sidewalks, ways, or other places and plan or replan, zone or rezone any part of the municipality in accordance with state law.

(2) A municipality may include in any application or contract for financial assistance with the federal government for an urban renewal project the conditions imposed pursuant to federal laws that the municipality may consider reasonable and appropriate and that are not inconsistent with the purposes of part 43 and this part, including any requirement for a blighted designation necessary for qualified redevelopment bonds under 26 U.S.C. 144(c)."

Section 12 9. Section 70-30-102, MCA, is amended to read:

"70-30-102. Public uses enumerated. Subject to the provisions of this chapter, the right of eminent domain may be exercised for the following public uses:

(1) all public uses authorized by the government of the United States;

(2) public buildings and grounds for the use of the state and all other public uses authorized by the legislature of the state;

(3) public buildings and grounds for the use of any county, city, town, or school district;

(4) canals, aqueducts, flumes, ditches, or pipes conducting water, heat, or gas for the use of the inhabitants of any county, city, or town;

(5) projects to raise the banks of streams, remove obstructions from streambanks, and widen, deepen, or straighten stream channels;

(6) water and water supply systems as provided in Title 7, chapter 13, part 44;

(7) roads, streets, alleys, controlled-access facilities, and other publicly owned buildings and facilities for the benefit of a county, city, or town or the inhabitants of a county, city, or town;

(8) acquisition of road-building material as provided in 7-14-2123;

(9) stock lanes as provided in 7-14-2621;

(10) parking areas as provided in 7-14-4501 and 7-14-4622;

(11) airport purposes as provided in 7-14-4801, 67-2-301, 67-7-210, and Title 67, chapters 10 and 11;

(12) urban renewal projects as provided in Title 7, chapter 15, parts 42 and 43, except that private property may be acquired for urban renewal through eminent domain only if the property is determined to be a blighted an area in need of urban renewal, as defined in 7-15-4206(2)(a), (2)(h), (2)(k), or (2)(n) 7-15-4206 for property listed in 7-15-4259(2), and may not be acquired for urban renewal through eminent domain if the purpose of the project is to increase government tax revenue;

(13) housing authority purposes as provided in Title 7, chapter 15, part 44;

(14) county recreational and cultural purposes as provided in 7-16-2105;

(15) city or town athletic fields and civic stadiums as provided in 7-16-4106;

(16) county cemetery purposes pursuant to 7-11-1021, cemetery association purposes as provided in 35-20-104, and state veterans' cemetery purposes as provided in 10-2-604;

(17) preservation of historical or archaeological sites as provided in 23-1-102 and 87-1-209(2);

~~(18) public assistance purposes as provided in 53-2-201;~~

~~(19) highway purposes as provided in 60-4-103 and 60-4-104;~~

~~(20) common carrier pipelines as provided in 69-13-104;~~

~~(21) water supply, water transportation, and water treatment systems as provided in 75-6-313;~~

~~(22) mitigation of the release or threatened release of a hazardous or deleterious substance as provided in 75-10-720;~~

~~(23) the acquisition of nonconforming outdoor advertising as provided in 75-15-123;~~

~~(24) screening for or the relocation or removal of junkyards, motor vehicle graveyards, motor vehicle wrecking facilities, garbage dumps, and sanitary landfills as provided in 75-15-223;~~

~~(25) water conservation and flood control projects as provided in 76-5-1108;~~

~~(26) acquisition of natural areas as provided in 76-12-108;~~

~~(27) acquisition of water rights for the natural flow of water as provided in 85-1-204;~~

~~(28) property and water rights necessary for waterworks as provided in 85-1-209 and 85-7-1904;~~

~~(29) conservancy district purposes as provided in 85-9-410;~~

~~(30) wharves, docks, piers, chutes, booms, ferries, bridges, private roads, plank and turnpike roads, and railroads;~~

~~(31) canals, ditches, flumes, aqueducts, and pipes for:~~

~~(a) supplying mines, mills, and smelters for the reduction of ores;~~

~~(b) supplying farming neighborhoods with water and drainage;~~

~~(c) reclaiming lands; and~~

~~(d) floating logs and lumber on streams that are not navigable;~~

~~(32) sites for reservoirs necessary for collecting and storing water. However, reservoir sites must possess a public use demonstrable to the district court as the highest and best use of the land.~~

~~(33) roads, tunnels, and dumping places for working mines, mills, or smelters for the reduction of ores;~~

~~(34) outlets, natural or otherwise, for the flow, deposit, or conduct of tailings or refuse matter from mines, mills, and smelters for the reduction of ores;~~

~~(35) an occupancy in common by the owners or the possessors of different mines of any place for the flow, deposit, or conduct of tailings or refuse matter from their several mines, mills, or smelters for reduction of ores and sites for reservoirs necessary for collecting and storing water for the mines, mills, or~~

~~smelters. However, the reservoir sites must possess a public use demonstrable to the district court as the highest and best use of the land.~~

~~(36) private roads leading from highways to residences or farms;~~

~~(37) telephone or electrical energy lines, except that local government entities as defined in 2-7-501, municipal utilities, or competitive electricity suppliers may not use this chapter to acquire existing telephone or electrical energy lines and appurtenant facilities owned by a public utility or cooperative for the purpose of transmitting or distributing electricity or providing telecommunications services;~~

~~(38) telegraph lines;~~

~~(39) sewerage of any:~~

~~(a) county, city, or town or any subdivision of a county, city, or town, whether incorporated or unincorporated;~~

~~(b) settlement consisting of not less than 10 families; or~~

~~(c) public buildings belonging to the state or to any college or university;~~

~~(40) tramway lines;~~

~~(41) logging railways;~~

~~(42) temporary logging roads and banking grounds for the transportation of logs and timber products to public streams, lakes, mills, railroads, or highways for a time that the court or judge may determine. However, the grounds of state institutions may not be used for this purpose.~~

~~(43) underground reservoirs suitable for storage of natural gas;~~

~~(44) projects to mine and extract ores, metals, or minerals owned by the condemnor located beneath or upon the surface of property where the title to the surface vests in others. However, the use of the surface of property for strip mining or open-pit mining of coal (i.e., any mining method or process in which the strata or overburden is removed or displaced in order to extract the coal) is not a public use, and eminent domain may not be exercised for this purpose.~~

~~(45) projects to restore and reclaim lands that were strip mined or underground mined for coal and not reclaimed in accordance with Title 82, chapter 4, part 2, and to abate or control adverse effects of strip or underground mining on those lands."~~

~~NEW SECTION. **Section 13 10. Repealer.** The following section of the Montana Code Annotated is repealed:~~

~~7-15-4203. Need for redevelopment and rehabilitation of blighted areas.~~