



Blight in the Urban Renewal Context

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Legislative statement of policy regarding “blighted areas”

7-15-4202. Existence of blighted areas 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 existence of such areas:
 - (a) contributes substantially and increasingly to the spread of disease and crime and depreciation of property values;
 - (b) constitutes an economic and social liability;
 - (c) substantially impairs or arrests the sound growth of municipalities;
 - (d) retards the provision of housing accommodations;
 - (e) 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.

Statutory definition of “blighted area”

Pursuant to Montana Code Annotated, Section 7-15-4206(2), “blighted area” means an area that is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime, that substantially 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) inappropriate or mixed uses of land or buildings;
- (d) high density of population and overcrowding;
- (e) defective or inadequate street layout;
- (f) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- (g) excessive land coverage;
- (h) unsanitary or unsafe conditions;
- (i) deterioration of site;
- (j) diversity of ownership;
- (k) tax or special assessment delinquency exceeding the fair value of the land;
- (l) defective or unusual conditions of title;
- (m) improper subdivision or obsolete platting;
- (n) the existence of conditions that endanger life or property by fire or other causes; or
- (o) any combination of the factors listed in this subsection (2).

Why does it matter?

7-15-4210. Resolution of necessity required to utilize provisions of part. A municipality may not exercise any of the powers authorized by part 43 and this part until after its local governing body has adopted a resolution finding that:

- (1) one or more blighted areas exist in the municipality by finding that at least three of the factors listed in 7-15-4206(2) apply to the area or a part of the area; and
- (2) the rehabilitation, redevelopment, or both of an area or areas are necessary in the interest of the public health, safety, morals, or welfare of the residents of the municipality.

Historical origins

- Much of Montana’s definition of “blighted areas” comes directly from early city planning literature
 - Mabel Walker’s 1936 “Urban Blight and Slums” defines slums as districts with an excess of buildings that “either because of dilapidation, obsolescence, overcrowding, poor arrangement or design, lack of ventilation, light or sanitary facilities, or a combination of these factors, are detrimental to the safety, health, morals and comfort of the inhabitants thereof”
- Early advocates for urban renewal made arguments similar to the Montana legislature’s statement of policy– that not only does blight damage the residents of blighted areas, but it also drains urban resources
 - i.e., higher costs of police and social services, combined with lower tax base
- Slum clearance was an integral part of the Housing Act of 1949, which shifted to “urban renewal” when the Housing Act was amended in 1954
- Montana’s urban renewal act was adopted in 1959, when emphasis was shifting away from demolition and toward rehabilitation and conservation of deteriorating areas

Comparison with other states

- 49 states have some kind of urban renewal act
- Of these 49, 36 require findings of “blight” (or similar language)
- Roughly 21 of those 36 states have definitions of blight that are similar to Montana
 - In some cases the definitions are organized differently or have factors that vary in content or number, but across these 21 states the factors are largely similar
- Of the remaining 15 states requiring findings of “blight,” 8 have less specific definitions than Montana, and 7 have more specific definitions than Montana

Example of less specific definition

Alaska:

- **“improvement area” means an area that a municipality determines to be**
- **(A) a blighted area on the basis of the substantial presence of factors such as excessive vacant land on which structures were previously located, abandoned or vacant buildings, substandard structures, and delinquencies in payment of real property taxes; or**
- **(B) an area that is capable of being substantially improved based on the property value within the area (Sec. 29.47.460).**

Example of more specific definition

Illinois

- “blighted area” means any improved or vacant area within the boundaries of a redevelopment project area located within the territorial limits of the municipality where:
- (1) If improved, industrial, commercial, and residential buildings or improvements are detrimental to the public safety, health, or welfare because of a combination of 5 or more of the following factors, each of which is (i) present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the improved part of the redevelopment project area:
 - (A) Dilapidation. An advanced state of disrepair or neglect of necessary repairs to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so serious and so extensive that the buildings must be removed.
 - (B) Obsolescence. The condition or process of falling into disuse. Structures have become ill-suited for the original use.
 - (C) Deterioration. With respect to buildings, defects including, but not limited to, major defects in the secondary building components such as doors, windows, porches, gutters and downspouts, and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters, sidewalks, off-street parking, and surface storage areas evidence deterioration, including, but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material, and weeds protruding through paved surfaces.
 - (D) Presence of structures below minimum code standards. All structures that do not meet the standards of zoning, subdivision, building, fire, and other governmental codes applicable to property, but not including housing and property maintenance codes.
 - (E) Illegal use of individual structures. The use of structures in violation of applicable federal, State, or local laws, exclusive of those applicable to the presence of structures below minimum code standards.
 - (F) Excessive vacancies. The presence of buildings that are unoccupied or under-utilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies.
 - (G) Lack of ventilation, light, or sanitary facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the removal of dust, odor, gas, smoke, or other noxious airborne materials. Inadequate natural light and ventilation means the absence of skylights or windows for interior spaces or rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.
 - (H) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone, and electrical services that are shown to be inadequate. Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in the redevelopment project area, (ii) deteriorated, antiquated, obsolete, or in disrepair, or (iii) lacking within the redevelopment project area.
 - (I) Excessive land coverage and overcrowding of structures and community facilities. The over-intensive use of property and the crowding of buildings and accessory facilities onto a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: (i) the presence of buildings either improperly situated on parcels or located on parcels of inadequate size and shape in relation to present-day standards of development for health and safety and (ii) the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or inadequate provision for loading and service.
 - (J) Deleterious land use or layout. The existence of incompatible land-use relationships, buildings occupied by inappropriate mixed-uses, or uses considered to be noxious, offensive, or unsuitable for the surrounding area.
 - (K) Environmental clean-up. The proposed redevelopment project area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.
 - (L) Lack of community planning. The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area’s development. This factor must be documented by evidence of adverse or incompatible land-use relationships, inadequate street layout, improper subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community planning.

Example of more specific definition, cont.

- (M) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated.
- **(2) If vacant, the sound growth of the redevelopment project area is impaired by a combination of 2 or more of the following factors, each of which is (i) present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the vacant part of the redevelopment project area to which it pertains:**
 - (A) Obsolete platting of vacant land that results in parcels of limited or narrow size or configurations of parcels of irregular size or shape that would be difficult to develop on a planned basis and in a manner compatible with contemporary standards and requirements, or platting that failed to create rights-of-ways for streets or alleys or that created inadequate right-of-way widths for streets, alleys, or other public rights-of-way or that omitted easements for public utilities.
 - (B) Diversity of ownership of parcels of vacant land sufficient in number to retard or impede the ability to assemble the land for development.
 - (C) Tax and special assessment delinquencies exist or the property has been the subject of tax sales under the Property Tax Code within the last 5 years.
 - (D) Deterioration of structures or site improvements in neighboring areas adjacent to the vacant land.
 - (E) The area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.
 - (F) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated.
- **(3) If vacant, the sound growth of the redevelopment project area is impaired by one of the following factors that (i) is present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) is reasonably distributed throughout the vacant part of the redevelopment project area to which it pertains:**
 - (A) The area consists of one or more unused quarries, mines, or strip mine ponds.
 - (B) The area consists of unused rail yards, rail tracks, or railroad rights-of-way.
 - (C) The area, prior to its designation, is subject to (i) chronic flooding that adversely impacts on real property in the area as certified by a registered professional engineer or appropriate regulatory agency or (ii) surface water that discharges from all or a part of the area and contributes to flooding within the same watershed, but only if the redevelopment project provides for facilities or improvements to contribute to the alleviation of all or part of the flooding.
 - (D) The area consists of an unused or illegal disposal site containing earth, stone, building debris, or similar materials that were removed from construction, demolition, excavation, or dredge sites.
 - (E) Prior to November 1, 1999, the area is not less than 50 nor more than 100 acres and 75% of which is vacant (notwithstanding that the area has been used for commercial agricultural purposes within 5 years prior to the designation of the redevelopment project area), and the area meets at least one of the factors itemized in paragraph (1) of this subsection, the area has been designated as a town or village center by ordinance or comprehensive plan adopted prior to January 1, 1982, and the area has not been developed for that designated purpose.
 - (F) The area qualified as a blighted improved area immediately prior to becoming vacant, unless there has been substantial private investment in the immediately surrounding area. [65 ILCS 5/11-74.4-3](#).

Considerations

- **Montana's definition has its origins in the early city planning and urban renewal context**
 - Strong historical record for this definition;
 - Perhaps could be modernized
- **Most states that require local governments to make findings in order to use urban renewal powers have similar definitions of blight**
- **Represents a delegation of power by the legislature to municipalities, but with guardrails around it**
 - More detailed definition of blight = stronger guardrails
 - Less detailed definition of blight = weaker guardrails

Thank you!

Please reach out with questions.

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