

"BLIGHTED AREA" STATUTES

REVENUE INTERIM COMMITTEE
JANUARY 2024

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.

7-15-4203. Need for redevelopment and rehabilitation of blighted areas. It is further found and declared:

(1) that certain of such **blighted areas** or portions thereof may require acquisition, clearance, and disposition subject to use restrictions as provided in this part, since the prevailing condition of decay may make impracticable the reclamation of the area by rehabilitation;

(2) that other areas or portions thereof may, through the means provided in this part, be susceptible of rehabilitation in such a manner that the conditions and evils enumerated in 7-15-4202 may be eliminated, remedied, or prevented; and

(3) that to the extent feasible salvable **blighted areas** should be rehabilitated through voluntary action and the regulatory process.

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**" 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).

(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) "Elected" means chosen by vote or acclamation or appointed to a vacancy in an otherwise elected position.

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

(7) "Local governing body" means the elected members of a council or other elected members of a legislative body charged with governing a municipality or consolidated city-county.

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

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

(10) "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.

(11) "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.

(12) "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.

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

(14) "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.

(15) "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.

(16) "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.

(17) "Redevelopment" may include:

(a) acquisition of a **blighted area** or 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.

(18) (a) "Rehabilitation" may include the restoration and renewal of a **blighted area** or portion of the area 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), 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.

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

(20) "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.

(21) (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 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.

7-15-4209. Development of workable urban renewal program. (1) A municipality, for the purposes of this part and part 43, 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) to encourage needed urban rehabilitation;

(c) to provide for the redevelopment of such areas; or

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

(2) Such 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 by replanning, removing congestion, providing parks, playgrounds, and other public improvements; by encouraging voluntary rehabilitation; and by compelling the repair and rehabilitation of deteriorated or deteriorating structures; and

(c) the clearance and redevelopment of **blighted areas** or portions thereof.

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.

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

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

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

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

(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 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 effectively;

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

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), is a public use, and 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) 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) 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.

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.