

**SECTION 4:**  
**USING POLICY AND LEGAL TOOLS TO  
CLEAN UP OR ACQUIRE BLIGHTED PROPERTIES**



# What Issues Do We Need to Address With Policy?

## 1 Physical Problems – Improve Safety and Health

Dilapidated, dangerous  
buildings

Overgrown lots

Illegal dumping

Rodents or vermin  
infestations

## 2 Property Ownership – Transfer Neglected Property

Clouded property titles

Large amounts of back taxes

Speculators or absentee  
owners who do not maintain  
property

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 **Key Point:** Policies can focus on dealing with immediate physical problems, on transferring property out of neglectful owners' hands, or on both.

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# Legal Definition of “Blight”

The legal definition of “blight” in Louisiana includes only properties that meet the following conditions:



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▶ **Key Point:** When policies mention “blighted” properties specifically, they’re referring to properties that have been found guilty through the code enforcement process.

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*\* More info on code enforcement available within this section.*

# Policy #1: Code Enforcement & Sheriff's Sale

## Goal:

- Fix physical conditions by fining owners who have blighted property – so they will fix the property.
- Transfer properties whose owners won't or can't maintain them to new owners by auctioning them at sheriff's sale.

## How it Works:

1

Property inspected by Code Enforcement

2

Owners sent letter to appear at public hearing

3

Hearing occurs: finds guilty or not guilty

4

If guilty: code "liens" or fines put on tax bill

5

City may demolish buildings or help mow lots if needed

6

If fines not paid, property may be sold at sheriff's sale

7

Minimum bid at 1<sup>st</sup> sheriff sale: 2/3 appraised value  
If property does not sell at 1<sup>st</sup> sale, second sale may be held with no minimum bid

# Policy #1: Code Enforcement & Sheriff's Sale

## How Can this Policy Help With:

### 1 Physical Problems – Improve Safety and Health

- Incentivize owners to clean up property or receive a fine.
- If found guilty, City can demolish dangerous buildings.
- If found guilty, City can help mow overgrown lots through programs including Collaborative Nuisance Abatement Program and Lot Maintenance Program.

### 2 Property Ownership – Transfer Neglected Property

If property goes to sheriff's sale auction and sells:

- Title is cleared for new owner.
- New owner must pay back taxes – they are not removed or placed on previous owner.
- Need enforcement to ensure speculators cannot buy property and not clean it up.

# Policy #1: Code Enforcement & Sheriff's Sale

## Where Does this Policy Work Best?

- When **demolition** of a dilapidated, dangerous property is the goal – calling 311 for code enforcement is always a good idea.
- When **maintenance of vacant lots** is the goal – code enforcement helps to:
  - Get the owner to maintain the property so they can avoid fines.
  - Get absentee owners to agree to pay a local landscaper for maintenance so they can avoid fines.
  - Make the property eligible for City programs for maintenance.
- When **auction to a new owner** is the goal – code enforcement works best in strong and transitional markets where buyers can pay 2/3 property value, pay any back taxes, and rebuild property.

# Policy #1: Code Enforcement & Sheriff's Sale

## Related Resources for Maintenance of Guilty Properties:

### 1 Collaborative Nuisance Abatement Program

- Partnership between City and NORA to allow NORA vendors to maintain vacant lots with guilty judgments.
- Call Code Enforcement department at (504) 658-5050 for details.

### 2 Lot Maintenance Program

- Partnership between City and NORA to allow NORA vendors to maintain vacant lots with guilty judgments.
- Charges for maintenance are placed on property tax bill.
- Will begin in 2014 – contact your City Councilmember's office for details.

# Policy #2: Tax Sale

**Goal:** Sell unpaid taxes to an investor; if the owner does not pay the investor with interest, the investor can foreclose on the property after five years

## How it Works:

1

Owner does not pay property taxes

2

Property sent to tax title sale (aka “tax sale”)

3

Bidders all pay total amount of taxes due – a low bidder accepts a lower % ownership of the property

4

After auction, original owner has 3 year “redemptive period” to repay tax sale buyer with interest

5

If original owner does not repay, tax sale buyer should wait additional 2 years to correct any legal issues

6

Tax sale buyer can foreclose & take property after 5 total years

# Policy #2: Tax Sale

## How Can this Policy Help With:

### 1 Physical Problems – Improve Safety and Health

- Tax sale buyer can get a “writ of possession” from a court that allows them to maintain their property during the 5-year waiting period.
- Community organizations may purchase property at tax sale to maintain themselves; or may contact tax sale buyers to ask them to hire local landscapers.

### 2 Property Ownership – Transfer Neglected Property

- Title is not cleared for new owner. May have trouble getting title insurance and building on properties acquired thru tax sale.
- Full amount of back taxes paid at tax sale. This means properties with very high back taxes unlikely to sell at tax sale.
- Need more clarity for tax sale investors about what they are buying.

# Policy #2: Tax Sale

## Where Does this Policy Work Best?

- For **maintenance of vacant land**: Community organizations in any neighborhood, or any kind of real estate market, can buy a property at tax sale and gain a “writ of possession” from a judge to gain access to major problem properties and maintain them.
- For **transfer of property**: Tax sale is **not an ideal strategy** to buy property – due to the difficulties with getting title insurance even after the 5-year period is up. However, if the tax sale lot is used as green space and not developed, title insurance may not be necessary.
- Soft-market areas with low property values are more likely to have properties with very high back taxes that may not sell at auction.

# Policy #3: Adjudicated Property Sale or Donation

**Goal:** Sell or donate properties that have failed to sell at tax sale in the past and have been “adjudicated” to the City.

## How it Works:

1

Owner does not pay property taxes

2

Property sent to tax title sale (aka “tax sale”)

3

Property does not sell to any tax sale bidders and is “written in” to the City, as if the City won the auction

4

City must wait for 3-year redemptive period and 2-year additional “legal deficit” period

5

City can take ownership of property and auction it, donate it, or do a “Lot Next Door” type process

6

Right now, City does not have a process for these properties

# Policy #3: Adjudicated Property Sale or Donation

## How Can this Policy Help With:

### 1 Physical Problems – Improve Safety and Health

- Note that right now, the City would need to do further research into the City Charter to figure out a good process for selling or donating adjudicated property.
- Most physical benefits will come from transferring long-term vacant properties to neighbors, non-profits, or new private owners.

### 2 Property Ownership – Transfer Neglected Property

- Need to find a willing title insurance company to provide title insurance for buyers of adjudicated property – Jefferson Parish has a process for this.
- Back taxes are removed from the property and placed on the previous property owner.
- Most flexible way to move vacant property with high back taxes to new owners from community.

# Policy #3: Adjudicated Property Sale or Donation

## Where Does this Policy Work Best?

- Adjudicated properties are most likely to exist in **soft market areas**, because when a property's value is low, investors often won't purchase tax sale title – so the properties become adjudicated.
- Creating a City auction process for adjudicated properties with **no minimum bid** is possible under state law – helping those who can't afford to pay 2/3 property value compete in an auction process. More research is needed to understand if City Charter allows this.
- Under state law, it's also possible to do a **“Lot Next Door”- type process** – if a resident has property that touches the adjudicated property and maintains the property for one year, state law allows the City to sell it to the adjacent owner for any price.

# Policy #4: Three-Year Acquisitive Prescription

**Goal:** Allow community members to use, maintain, and eventually own properties that have been officially declared blighted.

## How it Works:

1

Property goes thru Code Enforcement process

2

Property receives guilty judgment for blight

3

Individual declares intention to hold property and maintain it, sends notices to owners and neighbors

4

Owners, and then neighbors, have 1<sup>st</sup> right to possession under this law - can hold property themselves instead

5

Individual must keep property maintained for 3 years, pay all back taxes, & take all legal steps

6

Individual gains ownership of property

# Policy #4: Three-Year Acquisitive Prescription

## How Can this Policy Help With:

### 1 Physical Problems – Improve Safety and Health

- Allow community members or others to legally hold and maintain blighted properties.
- Most physical benefits will come from transferring long-term vacant properties to neighbors, non-profits, or new private owners.

### 2 Property Ownership – Transfer Neglected Property

- Need to find a willing title insurance company to provide title insurance for these properties – may be difficult.
- All back taxes must be paid by person attempting to acquire the property – taxes can be high on long-term blighted properties.
- May work well for properties owned by non-profits that no longer exist.

# Policy #4: Three-Year Acquisitive Prescription

## Where Does this Policy Work Best?

- Properties eligible for three-year acquisitive prescription are most likely to exist in **soft market areas**, where owners may have been absent for years without selling or maintaining their property.
- However, if owners have been absent for years, properties are also likely to have **high back taxes** that will need to be paid by the occupying person in order to gain title to the property.
- One possible target is properties owned by absentee non-profits, or non-profits that no longer exist.

# Policy #5: Expropriation

**Goal:** Use public agencies' powers to fulfill the “public purpose” of transferring property to eliminate blighted conditions.

## How it Works:

1

Property goes thru Code Enforcement process

2

Property receives guilty judgment for blight

3

Public agency pays full appraised value of property to owners and takes property

4

Public agency may re-sell formerly blighted property to a new private owner

5

Currently, based on legal challenges at the state level, City is not pursuing expropriation

# Policy #5: Expropriation

## How Can this Policy Help With:

### 1 Physical Problems – Improve Safety and Health

- Most physical benefits will come from transferring blighted properties to new private owners.

### 2 Property Ownership – Transfer Neglected Property

- Expropriation is expensive for the government because they have to pay full price for properties, so it's a less favored option.
- Works best for large-scale projects with major economic benefits or designed to achieve public purposes, like water management or affordable housing.

# Policy #5: Expropriation

## Where Does this Policy Work Best?

- As of early 2014, neither the City nor NORA expropriates property.
- Expropriation is expensive for the government because they have to pay full market value for properties – so they are most likely to expropriate blighted properties in **strong or transitional market areas** where there is interest from private developers or community developers.
- However, certain strategic properties that could be used for large-scale housing development or water management in **soft market areas** could also be eligible.

# Legal Tool #1: Ground Leases

**Goal:** Gain access to vacant land in a neighborhood by “ground leasing” the land at very low cost from current owners.

## **How it Works:**

- Ground leases are essentially a way for community groups or local residents to “rent” land from its current owner.
- A lease will state how long the community group or resident may use the land, and what the approved uses are – for example, a park, a farm, or a garden could be options.
- Usually the “rental” fee can be as low as \$1 per year – because the community group using the land is helping the owner avoid code enforcement fines.

# Legal Tool #1: Ground Leases

**Do Ground Leases Clear Title?** They don't need to – the title is the owner's problem. The community is just “renting” the land.

**Do Ground Leases Remove Back Taxes?** They don't need to – the back taxes are the owner's problem.

## **Where Does this Policy Work Best?**

- Ground leases work anywhere where a community would like to activate a vacant or overgrown lot and can convince the owner to work with them on a lease agreement.
- Note that ground leases are a temporary strategy – you might have to move your garden or other asset after your lease period is up. Negotiating a longer lease will help you feel more secure about your ability to use the land for bigger projects.

# Which Policies & Tools Work Best for Your Market?

## 1 Soft Markets (Low Property Values)

- Adjudication – to remove high back taxes. Research on City charter is needed.
- Tax sale – best for creating green spaces w/o clear title
- Code enforcement – with maintenance programs
- Ground leases

## 2 Strong Markets (High Property Values)

- Code enforcement fines – to force owner clean-up or sale to new owner
- Sheriff's sale auctions for 2/3 property value plus all taxes and liens
- Ground leases

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**Key Point:** Policies that use auctions to bring properties “back to commerce” work well in strong markets. In soft markets, these can promote speculation – helping community-based residents and organizations eliminate taxes and gain clear title is more important.

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# Toolkit Activities and Information

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For more information and activities related to this section, see:

***Document: Policy Research for Community Stewardship of Blighted Property***

This document gives more detail about each policy option that was discussed in this section of the presentation; if you are working to apply these policy and legal tools in your neighborhood, this document will help!

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