

**TITLE 47  
PROPERTY**

**CHAPTER 47-01  
GENERAL PROVISIONS**

**47-01-01. Ownership defined.**

The ownership of a thing shall mean the right of one or more persons to possess and use it to the exclusion of others. In this code the thing of which there may be ownership is called property.

**47-01-02. Property - Classification.**

Property is:

1. Real or immovable; or
2. Personal or movable.

**47-01-03. Real property defined.**

Real or immovable property shall consist of:

1. Land;
2. That which is affixed to land, including manufactured homes as defined in section 41-09-02 with respect to which the requirements of subsections 1 through 3 of section 39-05-35, as applicable, have been satisfied;
3. That which is incidental or appurtenant to land; and
4. That which is immovable by law.

**47-01-04. Land defined.**

Land is the solid material of the earth, whatever may be the ingredients of which it is composed, whether soil, rock, or other substance.

**47-01-05. Fixtures defined.**

A thing is deemed to be affixed to land when it is attached to it by roots, as in the case of trees, vines, or shrubs, or imbedded in it, as in the case of walls, or permanently resting upon it, as in the case of buildings, or permanently attached to what is thus permanent, as by means of cement, plaster, nails, bolts, or screws.

**47-01-06. Appurtenances defined.**

A thing is deemed to be incidental or appurtenant to land when it by right is used with the land for its benefit, as in the case of a way or watercourse, or of a passage for light, air, or heat from or across the land of another. Sluice boxes, flumes, hose, pipes, railway tracks, cars, blacksmith shops, mills, and all other machinery or tools used in working or developing a mine are deemed affixed to the mine.

**47-01-07. Personal property defined.**

Personal property shall mean and include every kind of property that is not real.

**47-01-08. What may be subject to ownership.**

There may be ownership of the following:

1. All inanimate things which are capable of appropriation or of manual delivery.
2. All domestic animals.
3. All obligations.
4. Such products of labor or skill as the composition of an author, the good will of a business, trademarks, signs, and of rights created or granted by statute.
5. Animals, wild by nature, only when on the land of the person claiming them, or when tamed, taken and held in possession, or disabled and immediately pursued.

**47-01-09. Public or private ownership - All property subject to.**

All property in this state has an owner, whether that owner is the United States or the state, and the property public, or the owner an individual, and the property private. The state also may hold property as a private proprietor.

**47-01-10. State ownership - Property appropriated or dedicated - Property having no owner.**

The state is the owner of all property lawfully appropriated or dedicated to its own use and of all property of which there is no other owner.

**47-01-11. Private ownership - Persons qualified - Citizen - Alien.**

Except as provided in chapter 47-10.1, any person, whether citizen or alien, may take, hold, and dispose of property, real or personal, within this state.

**47-01-12. Scope of ownership - Above and below surface.**

The owner of land in fee has the right to the surface and to everything permanently situated beneath or above it.

**47-01-13. Ownership of land includes water.**

Repealed by S.L. 1963, ch. 419, § 7.

**47-01-14. Land below high watermark - Regulated by federal or state law.**

Repealed by S.L. 1995, ch. 435, § 2.

**47-01-15. Banks and beds of streams - Boundary of ownership.**

Except when the grant under which the land is held indicates a different intent, the owner of the upland, when it borders on a navigable lake or stream, takes to the edge of the lake or stream at low watermark. All navigable rivers shall remain and be deemed public highways. In all cases when the opposite banks of any stream not navigable belong to different persons, the stream and the bed thereof shall become common to both.

**47-01-16. Road or street - Boundary of ownership.**

An owner of land bounded by a road or street is presumed to own to the center of the way, but the contrary may be shown.

**47-01-17. Tree occupying lands of adjacent owner - Ownership determined from trunk.**

Trees whose trunks stand wholly upon the land of one owner belong exclusively to that owner although their roots grow into the land of another. Trees whose trunks stand partly on the land of two or more coterminous owners belong to them in common.

**47-01-18. Lateral and adjacent support.**

Each coterminous owner is entitled to the lateral and adjacent support which that owner's land receives from the adjoining land, subject to the right of the owner of the adjoining land to make proper and usual excavations on the same for purposes of construction on using ordinary care and skill, taking precautions to sustain the land of the other, and giving previous reasonable notice to the other of the intention to make such excavations.

**47-01-19. Boundaries - Obligation of coterminous owners.**

Coterminous owners are mutually bound to maintain equally the boundaries and monuments between them.

**47-01-20. Extent of ownership - Products and accessions.**

The owner of a thing also owns all its products and accessions.

**47-01-21. Methods by which property may be acquired.**

Property may be acquired by:

1. Occupancy;
2. Accession;
3. Transfer;
4. Will; or
5. Succession.

**47-01-22. Temporary easements to contain fixed termination date.**

Whenever a temporary easement is acquired by the state or any of its agencies, departments, or institutions, or any political subdivision of the state in connection with highway or road construction or for any other purpose, a fixed date of termination shall be stated in such temporary easement, which date shall not be more than five years from the date of the easement.

**47-01-23. Landowner immunity - Use and condition of roads.**

A landowner may not be held liable for a claim resulting from the use or condition of a road across the landowner's property unless the landowner is primarily and directly responsible for the construction and maintenance of the road or an affirmative act of the landowner causes or contributes to the claim.