

21 GCA REAL PROPERTY
CH. 7 SERVITUDES

CHAPTER 7
SERVITUDES

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§ 7101. Servitudes Attached to Land.

The following land burdens, or servitudes upon land, may be attached to other land as incidents or appurtenances, and are then called easements:

- (a) The right of pasture;
- (b) The right of fishing;
- (c) The right of taking game;
- (d) The right of way;
- (e) The right of taking water, wood, minerals, and other things;
- (f) The right of transacting business upon land;
- (g) The right of conducting lawful sports upon land;
- (h) The right of receiving air, light, or heat from or over, or discharging the same upon or over land;
- (i) The right of receiving water from or discharging the same upon land;
- (j) The right of flooding land;
- (k) The right of having water flow without diminution or disturbance of any kind;
- (l) The right of using a wall as a party-wall;

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(m) The right of receiving more than natural support from adjacent land or things affixed thereto;

(n) The right of having the whole of a division fence maintained by a coterminous owner;

(o) The right of having public conveyances stopped, or of stopping the same on land;

(p) The right of a seat in church;

(q) The right of burial.

SOURCE: CC §801.

§ 7102. Servitudes Not Attached to Land.

The following land burdens, or servitudes upon land, may be granted and held, though not attached to land:

(a) The right to pasture, and of fishing and taking game;

(b) The right of a seat in church;

(c) The right of burial;

(d) The right of taking rents and tolls;

(e) The right of way;

(f) The right of taking water, wood, minerals, or other things.

SOURCE: CC §802.

§ 7103. Designation of Estates.

The land to which an easement is attached is called the dominant tenement; the land upon which a burden or servitude is laid is called the servient tenement.

SOURCE: CC §803.

§ 7104. By Whom Grantable.

A servitude can be created only by one who has a vested estate in the servient tenement.

SOURCE: CC §804.

§ 7105. By Whom Held.

A servitude thereon cannot be held by the owner of the servient tenement.

SOURCE: CC §805.

§ 7106. Extent of Servitudes.

The extent of a servitude is determined by the terms of the grant, or the nature of the enjoyment by which it was acquired.

SOURCE: CC §806.

§ 7107. Apportioning Easements.

In case of partition of the dominant tenement the burden must be apportioned according to the division of the dominant tenement, but not in such a way as to increase the burden upon the servient tenement.

SOURCE: CC §807.

§ 7108. Rights of Owner, Future Estate.

The owner of a future estate in a dominant tenement may use easements attached thereto for the purpose of viewing waste, demanding rent, or removing an obstruction to the enjoyment of such easements, although such tenement is occupied by a tenant.

SOURCE: CC §808.

§ 7109. Actions Owner, Dominant Tenement.

The owner of any estate in a dominant tenement, or the occupant of such tenement, may maintain an action for the enforcement of an easement attached thereto.

SOURCE: CC §809.

§ 7110. Actions Owner, Servient Tenement.

The owner in fee of a servient tenement may maintain an action for the possession of the land, against any one unlawfully possessed thereof, though a servitude exists thereon in favor of the public.

SOURCE: CC §810.

§ 7111. How Extinguished.

A servitude is extinguished:

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(a) By the vesting of the right to the servitude and the right to the servient tenement in the same person;

(b) By the destruction of the servient tenement;

(c) By the performance of any act upon either tenement, by the owner of the servitude, or with his assent, which is incompatible with its nature or exercise; or,

(d) When the servitude was acquired by enjoyment, by disuse thereof by the owner of the servitude for the period prescribed for acquiring title by enjoyment.

SOURCE: CC §811.
