

Adverse Possession Elements

State	Exclusive	Open and Notorious	Continuous	Objective Hostility	Good Faith	Bad Faith	Peaceful	Tacking	Payment of Taxes	Color of Title
Alabama	✓	✓	✓	✓				✓	✓ ¹	✓ ²
Conn.	✓ ³	✓	✓	✓				✓		
Delaware	✓	✓	✓	✓				✓		
Florida	✓	✓	✓	✓				✓	✓ ⁴	✓ ⁵
Georgia	✓	✓	✓		✓		✓	✓		✓ ⁶
Illinois	✓	✓	✓	✓	✓ ⁷			✓	✓ ⁸	✓ ⁹
Indiana	✓ ¹⁰	✓ ¹¹	✓ ¹²	✓ ¹³				✓	✓ ¹⁴	
Kentucky	✓	✓	✓	✓				✓		✓ ¹⁵
Maine	✓	✓	✓	✓				✓	✓ ¹⁶	
Maryland	✓	✓	✓	✓				✓		
Mass.	✓	✓	✓	✓				✓		
Michigan	✓	✓	✓	✓				✓		
Mississippi	✓	✓	✓	✓			✓	✓		
N.H.	✓	✓	✓	✓				✓		
New Jersey	✓	✓	✓	✓				✓	✓ ¹⁷	✓ ¹⁸
New York	✓	✓	✓	✓ ¹⁹	✓ ²⁰			✓		✓ ²¹
N.C.	✓	✓ ²²	✓	✓				✓		✓ ²³
Ohio	✓	✓	✓	✓				✓		
Penn.	✓ ²⁴	✓	✓	✓				✓		
R.I.	✓	✓	✓	✓				✓		
S.C.	✓	✓	✓	✓		✓ ²⁵		✓ ²⁶		✓ ²⁷
Tennessee	✓	✓	✓	✓				✓		✓ ²⁸
Vermont	✓	✓	✓	✓				✓		
Virginia	✓	✓	✓	✓				✓		
W. Va.	✓	✓	✓	✓				✓		
Wisconsin	✓	✓	✓	✓	✓ ²⁹			✓	✓ ³⁰	✓ ³¹

1. One of three possible elements that, in combination with the standard common law elements, can satisfy the 10-year statutory adverse possession scheme. The other two are color of title and title by descent cast.

2. One of three possible elements that, in combination with the standard common law elements, can satisfy the 10-year statutory adverse possession scheme. The other two are payment of taxes and title by descent cast.

3. Connecticut courts also refer to an ouster requirement, necessitating that the alleged possessor oust the true owner from possession. Ouster does not mean physically kicking someone off the land, however. Courts define ouster as entry onto the land of another under claim and color of right. Therefore, the ouster requirement is just another way of saying taking property with the intent to own to the exclusion of others.

4. Either this or color of title, in addition to the standard common law elements, is necessary to successfully claim adverse possession in Florida.

5. Either this or payment of taxes, in addition to the standard common law elements, is necessary to successfully claim adverse possession in Florida.

6. Required if claiming adverse possession under the statutory scheme allowing for adverse possession after seven years.

7. Required if claiming adverse possession under the statutory scheme allowing for adverse possession after seven years.

8. Required if claiming adverse possession under the statutory scheme allowing for adverse possession after seven years.

9. Required if claiming adverse possession under the statutory scheme allowing for adverse possession after seven years.

10. Indiana courts refer to the elements of an adverse possession claim as control, intent, notice, and duration. Control is interpreted as requiring exclusive use.

11. Indiana courts refer to the elements of an adverse possession claim as control, intent, notice, and duration. Notice is interpreted as requiring use that is open and notorious.

12. Indiana courts refer to the elements of an adverse possession claim as control, intent, notice, and duration. Control is interpreted as including the need for use to be to such an extent that an average owner of such property would use it.

13. Indiana courts refer to the elements of an adverse possession claim as control, intent, notice, and duration. Intent is interpreted as meaning intent to assert ownership over the property.

14. Required to successfully claim adverse possession in Indiana.

15. Required if claiming adverse possession under the statutory scheme allowing for adverse possession after seven years.

16. Required only for uncultivated land located in an incorporated place.

17. Required if claiming adverse possession over land not actually occupied. Assessment of taxes on the property for five consecutive years also required.

18. Required if claiming adverse possession over land not actually occupied.

19. Required in cases in which the old adverse possession statute applies because right vests before the effective date of the 2008 amendments.

20. Required under the 2008 amendments to the adverse possession statute.

21. Required to claim adverse possession without having to show substantial enclosure or usual improvement or cultivation of the property. If claimant cannot show color of title, must show substantial enclosure or usual improvement or cultivation of the property.

22. North Carolina also requires use be under known and visible lines and boundaries. The purpose of such requirement is to make sure the true owner knows that another party is asserting possession to property that the true owner legally owns. In other words, it is just another way of saying open and notorious use.

23. Required if claiming adverse possession under the statutory scheme allowing for adverse possession after seven years.

24. Pennsylvania also requires that use be distinct. This requirement, however, is merely a supplement to the requirement that use be exclusive. Distinct use merely means use to the extent as the true owner would use the property and preventing others from doing so.

25. Required in true boundary line disputes, cases in which the land in dispute is not the true owner's entire parcel, but a small strip located near the boundary line.

26. South Carolina allows tacking in two forms. If using to satisfy 10-year statutory period, then can only tack if the relationship between the current possessor and the claimant is an ancestor-heir relationship. If using to satisfy the 20-year statutory period, then tacking is permitted between any parties that are in privity.

27. Required to claim adverse possession without having to show substantial enclosure or usual improvement or cultivation of the property. If claimant cannot show color of title, must show substantial enclosure or usual improvement or cultivation of the property.

28. Required if claiming adverse possession under the statutory scheme allowing for adverse possession after seven years.

29. Required if claiming adverse possession under color of title without payment of taxes.

30. Required, in addition to color of title and the standard common law elements, if claiming adverse possession under the statutory scheme allowing for adverse possession after seven years.

31. Required, in addition to payment of taxes and the standard common law elements, if claiming adverse possession under the statutory scheme allowing for adverse possession after seven years. Also required if claiming adverse possession under the statutory scheme allowing for adverse possession after 10 years without payment of taxes.