

**LAWS  
GOVERNING THE  
STAKING AND FILING  
OF MINING CLAIMS  
IN THE  
STATE OF IDAHO**

IDAHO CODE - CHAPTER 6

LOCATION OF MINING CLAIMS

SECTION

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47-601. MINING CLAIM LOCATIONS AUTHORIZED. -- Persons are authorized to locate mining claims upon that public domain in the State of Idaho which is open to location under the mining laws of the United States. The location of a mining claim shall be made by posting notice of location and by marking the boundaries as provided in section 47-602 of this chapter.

47-602. METHOD OF LOCATING A MINING CLAIM. -- The locator of a mining claim must at the time of making his location designate his claim by posting at one corner of the claim his notice of location in writing in which there shall be stated:

1. The name of the locator or locators.
2. The name of the claim and whether located as a lode mining claim or as a placer mining claim.
3. The date of the location and the mining district, if any, and the county in which the claim is located.
4. The directions and distances which describe the claim.
5. The directions and distance from the corner where notice is posted to such natural object or permanent monument, if any such there be, as will fix and describe in the notice itself the site of the claim.

Before recording his notice of location, the locator must mark the boundaries of his mining claim by placing at each corner or angle of the claim a substantial monument or a post at least four feet in height and four inches square or in diameter. Each post and monument shall be marked with the name of the claim, the position or number of the corner or angle and the direction of the boundary lines. The locator shall mark the boundary lines so that they can be readily traced. Where it is impracticable to place a monument or post in its true position, a witness monument shall be erected and marked to indicate the true position of the corner or angle.

47-607. LOCATION OF ABANDONED CLAIM. -- The location of abandoned claims shall be done in the same manner as if the location were of a new claim including the erection of new posts or monuments.

47-608. NOTICE MUST CLAIM ONLY ONE LOCATION. -- No location notice shall claim more than one location, whether the location is made by one or several locators, and if it purport to claim more than one location it is absolutely void.

47-609. SECURITY TO SURFACE OWNERS -- INJUNCTION. -- When the right to mine is in any case separate from the ownership or right of occupancy of the surface ground, the owners or rightful occupants of the surface ground may demand satisfactory security from the miners, and if it be refused or not given, may enjoin such miners from working such ground until such security is given. The court granting the writ of injunction shall fix the amount and nature of the security.

47-611. AFFIDAVIT OF LOCATORS. -- At or before the time of presenting a location notice for record, whether it be for a quartz lode or placer claim, one of the locators named in the same must make and subscribe an affidavit, in writing on or attached to the notice, substantially in the following form, to wit:

State of Idaho, county of \_\_\_\_\_, ss.

I, \_\_\_\_\_, do solemnly swear that I am a citizen of the United States of America (or have declared my intention to become such), and that I am acquainted with the mining ground described in this notice of location, and herewith called the \_\_\_\_\_ lode or placer claim; that the ground and claim therein described or any part thereof has not, to the best of my knowledge and belief, been previously located according to the laws of the United States and this state, or if so located, that the same has been abandoned or forfeited by reason of the failure of such former locators to comply in respect thereto with the requirements of said laws.

Signature

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

Signature

47-612. MANNER OF RECORDING NOTICES. -- The location notice herein required to be recorded must be recorded in the office of the county recorder of the county in which the claim is located (when the legal fee therefor is tendered), in a book kept for that purpose. Said book must be indexed, with the names of all the locators arranged in alphabetical order according to the family or surname of each.

47-613. CERTAIN SURVEYS MAY QUALIFY AS ANNUAL LABOR. -- Annual assessment work or labor upon a mining claim as required by the United States mining laws shall be defined to include, without being limited to, geological, geochemical and geophysical surveys conducted by qualified experts and verified by a detailed report filed for record in the office of the county recorder of the county in which the claim is located which sets forth fully 1) the location of the work performed in relation to the boundaries of the claim, 2) the nature, extent, and costs thereof, 3) the basic findings therefrom, and 4) the name, address, and professional background of the persons conducting the work. Surveys of this kind, however, may not be applied as labor for more than two consecutive years or for more than a total of five years on any one mining claim, and each of these surveys shall be non-repetitive of any previous survey on the same claim.

## APPENDIX

The following general observations are provided to answer a few of the more basic inquiries that are asked by mining claimants. It should be kept in mind, however, that such general rules should not be construed to apply in every instance and that competent legal assistance should be sought for advice on a specific case in question.

### LODE AND PLACER MINING CLAIMS

**WHO MAY LOCATE?** All citizens of the United States and those who have declared their intention to become citizens may locate mining claims on government land, and may occupy the land for the purpose of exploration and development, and may eventually secure patent for same. Right to such lands is initiated by prospecting for minerals thereon and upon discovery of mineral, by location of such lands. A location is made by staking the corners of the claim, posting a notice of location thereon and complying with the state laws regarding the recording of the notice in the office of the county recorder of the county where the lands are located, after the location work has been completed.

The method of location is set out in statutes attached hereto.

Women as well as men are allowed to locate and hold mining claims, also corporations in the same manner as individuals. It is not necessary to be a resident of the state. A prospector may locate a claim for a non-resident and receive a deed from him.

**WHAT LANDS ARE SUBJECT TO LOCATION?** Unoccupied, unappropriated vacant public lands of the United States, surveyed or unsurveyed, are open to prospecting, and upon discovery of mineral, to location and patent as also are lands in national forest reserves (forest regulations must be observed), and lands entered or patented under the stock-raising homestead law (title to minerals only can be acquired). Mining claims may also be located within grazing districts under the Taylor Grazing Act. Mining claims on the other hand, can not be located on patented lands, except as noted above, nor on lands in which mineral rights have been reserved, or such lands withdrawn from mineral entry by the government. Except as to the grazing homestead act mentioned above, mining claims can not be located on patented homesteads, or other homestead entries. Such mining locations would require contest for cancellation of the homestead entry.

**WHAT ARE THE DIMENSIONS OF A CLAIM?** Lode locations for minerals in lodes or veins, may not exceed in length 1500 feet along the vein and in width 300 feet on each side of the middle vein, or a total width of 600 feet, the end lines of the location must be parallel to each other. The law does not require center end stakes, while the end lines must be parallel and straight, this is not true as to side lines, however if angles are contained in the side lines they must be staked at each angle in the side lines.

## WHAT COUNTS AS ANNUAL LABOR

**APEX OUTSIDE.** Annual labor may be done on a lode having its apex outside of the surface lines of the location.

**BOARD.** Board received by laborers in addition to their wages.

**CONSTRUCTION OF A FLUME.** The turning of a stream or the construction of a flume.

**EXTRACTING ORE.** Labor expended in extracting ore from the claim.

**ON OR BELOW THE SURFACE.** Work either on the surface or below it.

**ROAD BUILDING.** Constructing a road to a mine.

**ON ONE OF A GROUP.** Annual can be performed on one claim of a group of claims if the work tends to the development of the entire group.

**SERVICES OF HORSES.** Reasonable compensation for the services of horses used in development work.

**SURVEYING FOR PATENT.** An official patent survey of a lode or placer mining claim or claims by a United States mineral surveyor may be credited.

**WAGES FOR WATCHMAN.** If a mine is idle, the time and labor of a watchman or custodian may be treated as annual labor.

**OUTSIDE OF BOUNDARIES.** Annual labor can be performed outside of the boundaries of the claim if it tends to the development of the claim.

**ANNUAL LABOR NOT ALLOWED.** The following illustrations will show the character of labor or improvements which will not count as annual assessment work: Work done to withdraw water from a mine so as to examine workings. Expenditures for work, labor and repairs on a stamp mill. Personal expenses and time in endeavoring to procure water to operate mill. Where there was no machinery or fixtures which made it necessary to employ a watchman. Picking rock from walls, side and outcroppings in small quantities, making tests for sampling, breaking and examining, crushing, and assaying, does not constitute assessment work. Building must be for benefit of claim. Building of house off the claim can not be considered. Mere prospecting can not be considered. Price paid for tools not considered. Purchase of horses will not apply except as to value of services.

Labor and improvements are deemed valid, when performed or made for its development in such manner as to facilitate the extraction of the metals, though such labor and improvements may not be on the location itself.

**NUMBER OF CLAIMS.** It has been held that a locator may locate as many placer claims as he desires.

**MINERAL SUBJECT TO PLACER LOCATION.** Confusion has arisen in certain cases as to whether ground should be located as a lode or as a placer claim. The character and form of the deposit should control. As in the case of lode claims, it is essential that placer locations be made upon lands mineral in character and it has been held that it must contain sufficient mineral as to make it available and valuable for mining purposes. However, it is provided by statute that building stone may be located under the law relating to placer mineral claims.

**TITLE ACQUIRED TO PLACER LANDS.** The owner of a placer claim has the exclusive right to possession of the surface for mining purposes. Other persons have no right to go upon the ground to prospect for unknown lodes or acquire title to such lodes. However, veins of quartz or other rock in place, known to exist within the limits of a placer claim, are expressly excluded from placer locations and patents therefor. Where the existence of a vein or lode in a placer claim is not known a patent conveys title to such unknown lode. Therefore if a known lode is not included in a patent it may be located after patent has been issued.

#### IN GENERAL AS TO MINING CLAIMS

A mining claim is real property, and is defined by law as real estate, and has been held to be community property, where located by one during marriage, and may be sold, mortgaged, inherited, or subject to a lien or judgment. A mining claim is a possessory right, and it has been held that the right to possession comes only from a valid location, consequently if there is no valid location there can be no possession under it. Location does not necessarily follow from possession, but possession from location. A location is not made by taking possession alone, but by working the ground, recording and doing whatever else is required for that purpose by the acts of congress and the local laws and regulations.

**FORFEITURE.** It has been held that to complete a forfeiture of a mining claim there must have been a relocation of such ground before a resumption of work. To acquire a right of possession of a mining claim after forfeiture of a prior claim, there must first be a relocation of such ground. Failure to perform assessment work alone does not amount to forfeiture.

**RELOCATION.** It is provided by law, federal, that upon failure to comply with such provisions, the claim or mine upon which such failure occurs shall be open to relocation in the same manner as if no location had been made provided work has not been resumed. Notice of forfeiture may be given to co-owners under this section.

It has been held that an attempted location of a mining claim based on a discovery within the boundaries of another valid prior claim is absolutely void and does not become valid even upon later abandonment of the prior location. It has also been held in Montana that a locator may at any time relocate his own claim for any purpose except to avoid doing the annual labor required by law.

There is one exception however as to school lands. Such mineral rights were first granted to the states by act of congress, January 25, 1927. Prior to that time the state acquired no mineral lands where such lands were, "known to be mineral in character at the time of taking effect of the grants." We therefore may find cases where mining locations were made prior to January 25, 1927, which if known to be mineral lands, may be valid locations, and if so the state has acquired no title.

COUNTY	COUNTY SEAT	ZIP CODE	COMMISSIONERS PHONE NO.
Ada.....	Boise.....	83702	(208) 384-8700
Adams.....	Council.....	83612	(208) 253-4561
Bannock.....	Pocatello.....	83201	(208) 232-8231
Bear Lake....	Paris.....	83261	(208) 945-2212
Benewah.....	St. Maries.....	83861	(208) 245-2234
Bingham.....	Blackfoot.....	83221	(208) 785-5005
Blaine.....	Hailey.....	83333	(208) 788-4290
Boise.....	Idaho City.....	83631	(208) 392-4431
Bonner.....	Sandpoint.....	83864	(208) 263-2920
Bonneville...	Idaho Falls.....	83401	(208) 523-1163
Boundary.....	Bonnors Ferry.....	83805	(208) 267-2242
Butte.....	Arco.....	83213	(208) 527-3021
Camas.....	Fairfield.....	83327	(208) 764-2242
Canyon.....	Caldwell.....	83605	(208) 459-0442
Caribou.....	Soda Springs.....	83276	(208) 547-4324
Cassia.....	Burley.....	83318	(208) 678-7302
Clark.....	Dubois.....	83423	(208) 374-5304
Clearwater...	Orofino.....	83544	(208) 476-3615
Custer.....	Challis.....	83226	(208) 879-2360
Elmore.....	Mountain Home.....	83647	(208) 587-7272
Franklin.....	Preston.....	83263	(208) 852-1090
Fremont.....	St. Anthony.....	83445	(208) 624-7332
Gem.....	Emmett.....	83617	(208) 365-4561
Gooding.....	Gooding.....	83330	(208) 934-4841
Idaho.....	Grangeville.....	83530	(208) 983-2751
Jefferson....	Rigby.....	83442	(208) 745-7756
Jerome.....	Jerome.....	83338	(208) 324-8811
Kootenai.....	Coeur d'Alene.....	83814	(208) 664-8291
Latah.....	Moscow.....	83843	(208) 882-8580
Lemhi.....	Salmon.....	83467	(208) 756-2815
Lewis.....	Nez Perce.....	83543	(208) 937-2661
Lincoln.....	Shoshone.....	83352	(208) 886-7641
Madison.....	Rexburg.....	83440	(208) 356-3662
Minidoka....	Rupert.....	83350	(208) 436-9331
Nez Perce....	Lewiston.....	83501	(208) 746-1331
Oneida.....	Malad.....	83252	(208) 766-4116
Owyhee.....	Murphy.....	83650	(208) 495-2421
Payette.....	Payette.....	83661	(208) 642-4641
Power.....	American Falls.....	83211	(208) 226-2522
Shoshone....	Wallace.....	83873	(208) 752-3331
Teton.....	Driggs.....	83422	(208) 354-2905
Twin Falls...	Twin Falls.....	83301	(208) 734-3300
Valley.....	Cascade.....	83611	(208) 382-4297
Washington...	Weiser.....	83672	(208) 549-2092