

Chapter 1 Mining Claims

40-1-1 Lode claims -- Size and shape -- Discovery necessary.

A lode mining claim, whether located by one or more persons, may equal, but shall not exceed, 1,500 feet in length along the vein or lode and may extend 300 feet on each side of the middle of the vein at the surface, except where adverse rights render a lesser width necessary. The end lines of each claim must be parallel. No location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located.

No Change Since 1953

40-1-2 Discovery monument -- Notice of location -- Contents.

The locator at the time of making the discovery of such vein or lode must erect a monument at the place of discovery, and post thereon his notice of location which shall contain:

- (1) The name of the claim.
- (2) The name of the locator or locators.
- (3) The date of the location.
- (4) If a lode claim, the number of linear feet claimed in length along the course of the vein each way from the point of discovery, with the width claimed on each side of the center of the vein, and the general course of the vein or lode as near as may be, and such a description of the claim, located by reference to some natural object or permanent monument, as will identify the claim.
- (5) If a placer or mill site claim, the number of acres or superficial feet claimed, and such a description of the claim or mill site, located by reference to some natural object or permanent monument, as will identify the claim or mill site.

No Change Since 1953

40-1-3 Boundaries to be marked.

Mining claims and mill sites must be distinctly marked on the ground so that the boundaries thereof can be readily traced.

No Change Since 1953

40-1-4 Copy of location notice to be recorded.

Within 30 days after the date of posting the location notice upon the claim, the locator, or the locator's assigns, shall record a substantial copy of the notice of location in the office of the county recorder of the county in which the claim is situated.

Amended by Chapter 85, 1999 General Session

40-1-6 Affidavit of performance of annual labor or payment of maintenance fee.

- (1) As used in this section, "assessment work" means the performance of labor or making of improvements on or for the benefit of a mining claim.
- (2) Within 30 days after the end of the annual period specified in 30 U.S.C. Sec. 28 the owner of an unpatented lode or placer mining claim, or a mill or tunnel site claim or someone on his

behalf, shall record an affidavit in the office of the county recorder of the county in which the claim is located setting forth:

- (a) the name and address of the owner of the claim;
 - (b) the name of the claim and the serial number, if any, assigned to the claim by the United States Bureau of Land Management;
 - (c) if assessment work was required to be performed under 30 U.S.C. Sec. 28 or other federal law to maintain the claim, a statement that the annual assessment work required to maintain the claim was performed; and
 - (d) if the assessment work was not required to be performed under 30 U.S.C. Sec. 28 or other federal law, a statement that it is the intention of the owner to hold the claim, and if a claim maintenance fee was paid as required by the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103-66 or other federal law, a statement that the fee was paid in a timely manner.
- (3) The affidavit, or a certified copy, shall be prima facie evidence of the facts stated in the affidavit.
- (4) The amendments made in this section do not affect any act or right accruing or which has accrued or been established or any suit or proceeding commenced before May 1, 1995.

Amended by Chapter 85, 1999 General Session

40-1-7 District recorders -- Office abolished.

From and after the termination of the office of any mining district recorder now holding office in this state such district shall be abolished and such office shall become vacant.

No Change Since 1953

40-1-8 Vacancy and removal -- County recorder to receive records.

- (1) If there is a vacancy in the office of recorder of any mining district, or if there is no person in the mining district authorized to retain the custody and give certified copies of the records, the person having custody of the records shall deposit them in the office of the county recorder of the county in which the mining district, or the greater part of the mining district, is situated.
- (2) That county recorder shall take possession of the records and may make and certify copies from the records, including any other copies of records and papers in the recorder's office pertaining to mining claims.
- (3) Those certified copies shall be receivable in evidence in all courts and before all officers and tribunals.
- (4) The production of a certified copy shall be, without further proof, evidence that the records were properly in the custody of the county recorder.

Amended by Chapter 85, 1999 General Session

40-1-9 County recorder may certify district records.

- (1) When the books, records, and documents pertaining to the office of mining district recorder have been deposited in the office of a county recorder, the recorder may make and certify copies from those records.
- (2) Those certified copies shall be receivable in all tribunals and before all officers of this state in the same manner and to the same effect as if the records had been originally filed or made in the office of the county recorder.

Amended by Chapter 85, 1999 General Session

40-1-10 Certified copies of records evidence.

Copies of notices of location of mining claims, mill sites and tunnel sites heretofore recorded in the records of the several mining districts, and copies of the mining rules and regulations in force therein and recorded, when duly certified by the district or county recorder, shall be receivable in all tribunals and before all officers of this state as prima facie evidence.

No Change Since 1953

40-1-11 Interfering with notices, stakes, or monuments -- Penalty.

Any person who intentionally or knowingly tears down or defaces a notice posted on a mining claim, or takes up or destroys any stake or monument marking the claim, or interferes with any person lawfully in possession of the claim, or who alters, erases, defaces, or destroys any record kept by a mining district or county recorder, is guilty of a class B misdemeanor, and shall be punished by a fine of not less than \$25 nor more than \$100, or by imprisonment for not less than 10 days nor more than six months, or by both the fine and imprisonment.

Amended by Chapter 229, 2007 General Session

40-1-12 Damages for wrongful removal of ores.

When damages are claimed for the extraction or selling of ore from any mine or mining claim and the defendant, or those under whom he claims, holds, under color of title adverse to the claims of the plaintiff, in good faith, then the reasonable value of all labor bestowed or expenses incurred in necessary developing, mining, transporting, concentrating, selling or preparing said ore, or its mineral content, for market, must be allowed as an offset against such damages; provided, however, that any person who, wrongfully entering upon any mine or mining claim and carrying away ores therefrom, or wrongfully extracting and selling ores from any mine, having knowledge of the existence of adverse claimants in any mine or mining claim, and without notice to them, knowingly and willfully trespasses in or upon such mine or mining claim and extracts or sells ore therefrom shall be liable to the owners of such ore for three times the value thereof without any deductions either for labor bestowed or expenses incurred in removing, transporting, selling or preparing said ore, or its mineral content for market.

No Change Since 1953