

Ministry of Mines

Hobby Mineral Collecting Policy



Mining Lands Section
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Purpose

The Ministry of Mines (“the ministry”) has received requests for clarification regarding the practice of hobby mineral collection in the province of Ontario. In response, the ministry has created this policy to clarify its approach to hobby mineral collection.

Background

The ministry recognizes hobby mineral collecting for its recreational and educational benefits; however all rocks and minerals on, in or under any land within the province of Ontario are originally owned by the Crown. The province controls the rights to these rocks and minerals (mining rights) by granting various forms of land tenure under the *Mining Act* (the “*Act*”), including patents, leases and licences. The various forms of land tenure grant specific property rights (that is, mining rights and/or surface rights) to private holders.

The *Act* and its regulations are designed to regulate commercial activities but, as structured, they also apply to hobbyists.

Recognizing the recreational and educational value of hobby mineral collecting, the ministry has adopted a policy of enforcement discretion. This means that while the *Act* specifies that only those who hold a prospector’s licence may explore for minerals, generally, the ministry will not enforce the requirements of the *Act* and its regulations where a person is hobby mineral collecting in accordance with this policy on lands where hobby mineral collecting is allowed.

About hobby mineral collecting

For the purpose of this policy, a person will be considered to be hobby mineral collecting where:

- the samples collected are of minerals as defined in the *Mining Act*¹;
- the activity of collecting is for personal pleasure, recreation, or interest;
- the mineral samples collected are for the collector’s personal collection;
- the minerals collected where mineral collecting can be done, as described below, do not exceed the amount a person can excavate with hand tools only and can carry unassisted from a specific site or location, at one time.
 - Examples of hand tools can include crowbars, picks, shovels, pans, sledgehammers, geological hammers, and chisels.

¹ The *Mining Act* does not regulate the extraction of all mineral resources in Ontario. Hobby mineral collectors are encouraged to refer to the *Aggregate Resources Act* and other legislation and to seek independent legal advice to confirm their legal obligations.

- To reduce the impact of hobby collecting on any individual location it is advised that locations for collecting be varied in a calendar year, to avoid taking more from a single location than is allowed by this policy.

The ministry encourages safe practices and preservation of the natural environment. Hobby mineral collecting activities subject to this policy and activities associated with the exercise of enforcement discretion also include:

- the practice of swapping minerals collected as part of building a collector's personal collection;
- the acquisition of minerals for educational purposes by institutions;
- the acquisition of minerals for displays at museums or other public places; and
- the acquisition of minerals for use in scientific research.

In short, any mineral collecting done for commercial purposes or mineral development and mine production purposes, and any mineral collecting beyond the thresholds described above or done with mechanized equipment, will not have the benefit of enforcement discretion described in this policy. Mineral collecting in these circumstances is subject to and must comply with the requirements of the *Mining Act* and other applicable legislation.

Anyone interested in learning more about mineral exploration and development in Ontario can complete the ministry's Mining Act Awareness Program – a short, online training program that provides information on the basics of the *Mining Act*. You can complete the free [Mining Act Awareness Program](#) in approximately 60 minutes.

Where hobby mineral collecting can be done

Hobby mineral collecting can be done on lands where the mining rights are open for mining claim registration. Additional lands where mining rights are not open for registration may be available, subject to the sections below. It is the hobby mineral collector's responsibility to confirm that the lands from which they are collecting are open. Some ways to determine the land status include: the ministry's [MLAS Map Viewer](#) or the local Land Registry Office using the [ONland](#) website.

Respecting landowners' rights when hobby mineral collecting

The ministry recognizes that hobby mineral collecting opportunities may also exist on lands other than lands where the mining rights are open for mining claim registration. These are typically lands in which a private third-party interest exists, such as:

- unpatented mining claims
- leases of the mining rights and/or surface rights
- freehold patents of the mining rights and/or surface rights
- licences of occupation
- land use permits

- aggregate permits or licences

There are two sets of rights in land – surface rights and mining rights. These rights may be held separately or together through various forms of tenure. The hobby mineral collector is responsible for determining the status of rights in lands they propose to enter for the purpose of hobby mineral collecting. It is important to respect the rights of private third-party interest holders.

Collectors must get consent to enter lands and/or collect samples in the following situations:

- For lands where there is a private interest in the surface rights, and the mining rights are open for mining claim registration or (in Southern Ontario) deemed to be withdrawn under section 35.1 of the *Act*, the hobby mineral collector must obtain the surface rights holder's consent before entering the land.
- For lands where there is a private interest in the mining rights, and there is no private interest in the surface rights, the hobby mineral collector has no right to take hobby mineral collection samples without the mining rights holder's consent.
- For lands where the surface rights and the mining rights are privately held, either by the same or different parties, the hobby mineral collector's ability to enter the lands and take hobby mineral collection samples is dependent on obtaining the consent of both interest holders.

Any arrangements reached between the hobby mineral collector and the third-party interest holder regarding access, timing, extraction methods and otherwise are considered private as between them, and the ministry has no regulatory control or involvement.

Where hobby mineral collecting can not be done

In general, hobby mineral collecting can not be done on lands where the mining rights are not open for mining claim registration.

The exception to this is in Southern Ontario; in Southern Ontario, as described above, if the lands are not open for claim registration by virtue of subsection 35.1 of the *Act*, the consent of the owner of the surface rights will be sufficient to allow for hobby collecting to occur, provided that it is otherwise done in accordance with the requirements of this policy.

There are several reasons why mining rights in lands may not be open for mining claim registration, including:

- reasons set out in subsection 27 (c) through (e), 29 (1) or (3), or section 30 of the *Act*, which includes lands set aside as reserves under the *Indian Act, 1985*.

- when lands are part of a provincial park, conservation reserve, or other protected area established under the *Provincial Parks and Conservation Reserves Act, 2006*, or the *Far North Act, 2010*, or are part of a national park.
- when lands have been withdrawn from prospecting, mining claim registration, sale or lease under the *Act*.

Even where mining rights are open for mining claim registration, there may be restrictions that may limit hobby mineral collectors' activities, including:

- where lands are subject to limitations, restrictions or prohibitions under any other legislation, regulations or statutes, including the *Public Lands Act; Ontario Heritage Act; and Funeral, Burial and Cremation Services Act, 2002*.
- where hobby mineral collecting may alter, destroy, remove or impair any rehabilitation work performed in accordance with the *Mining Act* or a filed closure plan, and the hobby mineral collector has not obtained prior consent from the Minister of Mines.

If you have questions about mining-related hazards or rehabilitation work, contact the ministry's [Rehabilitation Section](#).

Offences and penalties

The ministry, generally, will not enforce the requirements of the *Mining Act* and its regulations, as long as a person is hobby mineral collecting in accordance with the rules outlined in this policy.

Collectors who do not follow this policy will not have the benefit of the enforcement discretion and may be liable to fines or other penalties for offences under the *Mining Act* or other relevant legislation.

This policy does not exempt individuals from complying with any other applicable laws and regulations when hobby mineral collecting.

It is the hobby mineral collector's responsibility to confirm their legal obligations. To avoid possible legal consequences, the hobby mineral collector must obtain all necessary permits, approvals, permissions and consents before entering lands or collecting hobby mineral samples. If the consent of the surface rights and/or mining rights holder is not obtained, for example, the hobby mineral collector may be subject to charges of trespass or other interference with the land.

Where to find information

Ministry of Mines:

Provincial Mining Recorder's Office
Toll Free Telephone: 1-888-415-9845
Email: pro.ndm@ontario.ca
Website: Ministry of Mines | ontario.ca

MLAS Map Viewer
Website: [MLAS Map Viewer](#)

Resident and District Geologists
Website: [Resident and District Geologists](#)

Geology Ontario
Website: [Geology Ontario](#)

Ontario Land Registry:

The names of the owners of mining or surface rights leases and/or patents are available through the local Land Registry Office.

Website: [ONLand](#)

Glossary

Key terms used in this policy with defined meanings in the Mining Act

Crown: Crown in right of Ontario.

Crown Land: “Crown land” does not include,

- (a) land, the surface rights, mining rights or the mining and surface rights of which are under lease or licence of occupation from the Crown
- (b) land in the actual use or occupation of the Crown, the Crown in right of Canada, or of a department of the Government of Canada or a ministry of the Government of Ontario
- (c) land of which the use is withdrawn or set apart or appropriated for a public purpose
- (d) land held by a ministry of the Government of Ontario.

Holder: When referring to the holder of an unpatented mining claim or a licence of occupation issued under this *Act*, means the holder of record.

Minerals: Means all naturally occurring metallic and non-metallic minerals, including coal, salt, quarry and pit material, gold, silver and all rare and precious minerals and metals, but does not include sand, gravel, peat, gas or oil.

Mining claim: Means a parcel of land, including land under water, on which a mining claim is registered in accordance with subsection 38 (2) under the *Act*, or is deemed to have been registered under section 38.2 or 38.3 under the *Act*, on or after the day section 22 of Schedule 2 to the *Aggregate Resources and Mining Modernization Act, 2017* comes into force, and includes a cell claim and a boundary claim; (“claim”).

Mining lands: Includes:

- (a) the lands and mining rights patented or leased under or by authority of a statute, regulation or order in council, respecting mines, minerals or mining
- (b) lands or mining rights that are located, registered as a mining claim or used or intended to be used for mining purposes
- (c) surface rights granted solely for mining purposes.

Mining rights: Means the right to minerals on, in or under any land.

Patent: Means a transfer from the Crown of land in fee simple or for a lesser estate and includes leasehold patents and freehold patents.

Southern Ontario: means that part of the province that is not in Northern Ontario. “Northern Ontario” means that part of the province of Ontario lying north of the south shores of the French River, Lake Nipissing and Mattawa River.

Surface rights: Means every right in land other than the mining rights.

Unpatented: Means land or mining rights for which there is no patent, lease, licence of occupation or any other form of Crown grant in effect.

Key terms used in this policy that are not defined in the Mining Act

Enforcement Discretion: Means the ability to choose whether or not to strictly enforce legislative and regulatory requirements. In the context of this policy, enforcement discretion means that the Ministry will generally choose not to apply penalties or issue orders to a person as long as the Ministry is satisfied that the person is hobby mineral collecting in accordance with the rules outlined in this policy.

Rocks: Means all naturally occurring solid materials composed of one or more minerals.