





# The Kentucky Speleological Survey

**Lee Florea**

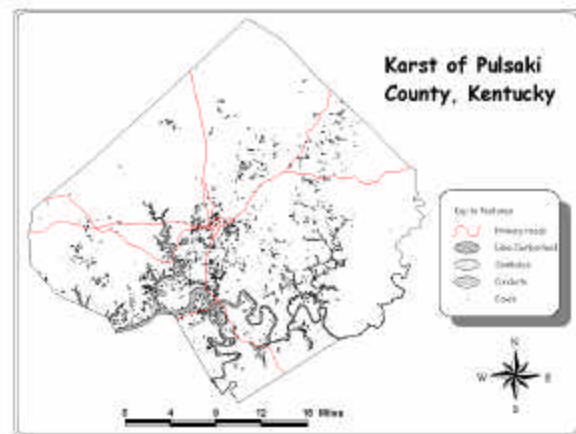
Interim President

When I began my caving years ago, I was curious as to why no central location existed for cave and karst data in Kentucky. Introduction into grottos and soon thereafter the NSS appeased my curiosity for a time. However, I always felt that something was missing. For years, I made contacts and researched information on caves using the traditional method, word of mouth.

This method outlived its usefulness. This was proven never more clearly than when fighting broad ranging environmental issues. Specifically, with KICK 66's effort to fight Interstate 66 through southern Kentucky during 1998 and 1999. In this fight, large volumes of karst information were needed for many areas in Kentucky to help justify our claims. Obtaining this information proved time consuming and very difficult.

In KICK 66's efforts and discussions with the Kentucky Transportation Cabinet and other government and private organizations, it became clear that a database of karst is becoming essential to proper development and planning for the regions of Kentucky underlain by limestone. It was during these meetings and ensuing discussions that the concept of the Kentucky Speleological Survey first formalized.

Partial karst inventories and cave databases are already under development. The Kentucky Geological Survey is developing a karst atlas of KY showing dye-trace and other karst data and maintains a cave map archive. The Cave Research Foundation, Central Kentucky Karst Coalition, and the American Cave Conservation Association have coordinated with other cavers and groups to produce a Dripping Springs map with Mammoth Cave and other cave overlays. The Ohio Valley Region and Sloans Valley Conservation Task Force has been working with Sloans Valley data for several years and is currently developing a GIS of the cave. Through the I-66 Special Project, I have produced a first draft of a karst atlas of Pulaski County on a GIS. This is only a partial list of those



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who are currently dedicating considerable time to such matters.

In the past, many years of hard work have gone into collecting and archiving karst data in Kentucky. A short list of names that come to mind are Bill Andrews, John Hagee, Angelo George, and Dave Beiter. With so many individuals working in different areas of the state and working with so many different aspects of karst, it is important to establish a protocol for organizing karst data. This will be essential for proper planning and zoning in karst regions, implementation of best management practices for karst, and advancing our state of knowledge about karst through well-informed research.

Karst areas and karst critters must be preserved. Kentucky is undergoing a rapid development phase, and large karst areas have been seriously impacted through lack of knowledge. Most surrounding states have some form of a cave survey. The time has come to make a speleological survey a reality for Kentucky. With recent technological advances, a speleological survey can be developed and managed efficiently.

In the organizational meetings we have conducted during 1999 and 2000, we outlined common interests and individual differences on how the Kentucky Speleological Survey should be established and managed. We investigated how other Surveys and Conservancies (Indiana, Illinois, Missouri, Tennessee, Virginia, and West Virginia) operate. Now, after a year of hard work, we have incorporated, and I hope that we can use what we have learned to make a speleological survey work for Kentucky.

I would specifically like to express gratitude toward the following organizations for their dedication, and donations of time and money:

- Blue Grass Grotto
- Cave Research Foundation
- Central Ohio Grotto
- Dayton Underground Grotto
- Greater Cincinnati Grotto
- Illinois Speleological Survey
- Kentucky Geological Survey
- National Speleological Society
- Ohio Valley Region, NSS

The Kentucky Speleological Survey will take the work of many in order for it to be a success. I am honored that I have been chosen as Interim President, and I hope that we can continue together to reach this goal and found an organization that we will all be proud of.



**View of Buck Creek from High on the Cliff Cave, Pulaski County, Kentucky (Kelley).**

**ARTICLES OF INCORPORATION  
OF THE  
KENTUCKY SPELEOLOGICAL SURVEY, INC.**

WE THE UNDERSIGNED having associated for the purposes of forming a non-profit, non-stock corporation, under and pursuant to the laws of the Commonwealth of Kentucky, and more particularly Chapter 273, Kentucky Revised Statutes, hereby certify as follows:

**ARTICLE I**

The name of the corporation shall be KENTUCKY SPELEOLOGICAL SURVEY, INC.

**ARTICLE II**

The term of existence of the corporation shall be perpetual.

**ARTICLE III**

The address of the registered office of the corporation is: The Kentucky Geological Survey, University of Kentucky, 228 Mining and Mineral Resources Building, Lexington, Kentucky 40506-0107.

The name of the initial registered agent for service of process, located at such address is: Randall Lee Paylor.

**ARTICLE IV**

The corporation is organized and shall be operated exclusively for scientific and educational purposes as described within Section 501(c)(3) of the Internal Revenue Code (or the corresponding provision of any future United States Internal Revenue Laws), including for such purposes the making of distributions to organizations and individuals for the purpose of engaging in activity falling within the purposes of the Corporation and permitted for an organization exempt under said Section 501(c)(3).

The purposes of the Corporation shall be more specifically stated as follows:

A. To gather and archive cave and karst data of the Commonwealth of Kentucky to further the study of cave and karst resources for conservation, research and scientific exploration.

B. To provide a permanent, non-profit, non-sectarian, cooperative organization that works to establish and nurture a professional atmosphere among individuals and organizations that support the foregoing purposes.

**ARTICLE V**

The Corporation shall be irrevocably dedicated to and operated exclusively for, non-profit purposes. No part of the net earnings of the corporation shall inure to the benefit of or be distributable to its members, trustees, officers or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article IV hereof.

**ARTICLE VI**

In carrying out the corporate purposes described in Article IV, the Corporation shall have all powers granted by the laws of the Commonwealth of Kentucky, including in particular those listed in Kentucky Revised Statutes Chapter 273.171 (or corresponding provision of any later state statute) except as follows and as otherwise stated in these Articles:

A. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

B. Notwithstanding any other provision of these Articles, the Corporation shall not carry on any other activities not permitted to be carried on:

1. by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, or the corresponding provisions of any subsequent Federal tax laws;

2. by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code, or corresponding provisions of any later Federal tax laws.

C. If and so long as the Corporation is a private foundation as defined in Section 509(a) of the Internal Revenue Code, or corresponding provisions of any later Federal tax laws:

1. The Corporation shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code, or corresponding provisions of any later Federal tax laws.

2. The Corporation shall not engage in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code, or corresponding provisions of any later Federal tax laws.

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3. The Corporation shall not retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code, or corresponding provisions of any later Federal tax laws.

4. The Corporation shall not make any investments in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code, or corresponding provisions of any later Federal tax laws.

5. The Corporation shall not make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code, or corresponding provisions of any later Federal tax laws.

### **ARTICLE VII**

The name and address of the incorporator is: Randall Lee Paylor at The Kentucky Geological Survey, University of Kentucky, 228 Mining and Mineral Resources Building, Lexington, Kentucky 40506-0107.

### **ARTICLE VIII**

The initial Board of Directors shall consist of 10 Directors. The names and addresses of the members of the initial Board of Directors are:

<u>DIRECTOR</u>	<u>ADDRESS</u>
Lee John Florea	9265 Hwy 1675 Somerset, KY 42501
Randall Lee Paylor	213 Greenbriar Rd. Lexington, KY 40503
Steve Aspery	264 Crandall Dr. Worthington, OH 43085
William Walden	1672 South Galena Rd. Galena, OH 43021
Darrell Adkins	1427 Club Dr. Mt. Vernon, OH 43050
Jim Currens	2155 Lansill Rd. Lexington, KY 40504
Jim Greer	285 Beechtree Ln. Mt. Washington, KY 40047
Kevin Toepke	3562 Rocky Rd. Columbus, OH 43323
Don Conover	467 W Krepps Rd. Xenia, OH 45385
Rickard S. Toomey, III	Illinois State Museum, 1011 E. Ash St., Springfield, IL 62703, USA

### **ARTICLE IX**

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The initial By-Laws shall be adopted by the initial Board of Directors. Thereafter, the Corporation shall be governed by the By-Laws.

Any Director may be removed for cause pursuant to By-Laws provisions regarding grounds and procedures for such removal.

### **ARTICLE X**

A. The directors, officers, employees and members of this Corporation shall not be held personally liable for any debt or obligation of the Corporation solely because of their position in the Corporation.

B. Any person serving on the Board of Directors of this Corporation shall not be held personally liable for monetary damages resulting from the breach of his or her duties as a director unless such act, omission or breach:

1. concerned or concerns a transaction in which the directors' personal financial interest was or is in conflict with the financial interests of the Corporation;

2. was not in good faith or involved or involves intentional misconduct on the part of the director;

3. was known by the director to be a violation of law; or

4. resulted in an improper personal benefit to the director.

C. Any director or officer or former director or officer of the Corporation may be indemnified by the Corporation against any expenses actually and reasonably incurred by him or her in connection with the defense of any action, suit or proceeding, civil or criminal, in which she or he is made a party by reason of being or having been such director or officer, except in relation to matters as to which she or he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty to the Corporation. The Corporation may make any other indemnification permitted by law and authorized by its Articles of Incorporation, or its By-Laws or a resolution adopted after notice to members entitled to vote.

### **ARTICLE XI**

In the event of dissolution of the Corporation, the Board of Directors shall, after paying or making provision for the payment of all liabilities of the Corporation, dispose of all assets of the Corporation exclusively for the purposes of the Corporation, in such manner, or to such organizations organized and operated exclusively for charitable or educational purposes as shall at the time qualify as an exempt organization under Section 501(c)(3) of the Internal Revenue

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Code (or corresponding provisions of any later Federal tax laws), as the Board of Directors shall determine.

The remaining assets, if any, shall be disposed of by the Circuit Court for the county in which the principal office of the Corporation is then located, exclusively for such purposes or to such organizations as said Court shall determine are organized and operated exclusively for such purposes.

**ARTICLE XII**

Amendments to these Articles shall be made pursuant to the provisions of Kentucky Revised Statutes 273.263 (or corresponding provisions of any later state statute).

IN TESTIMONY WHEREOF, witness the signature of the Incorporator of this Corporation, this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
INCORPORATOR

COMMONWEALTH OF KENTUCKY )  
COUNTY OF FAYETTE )

The foregoing Articles of Incorporation were acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 19\_\_, by \_\_\_\_\_.

Witness my signature and seal of office this \_\_ day of \_\_\_\_\_, 2000.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

This document prepared by:

\_\_\_\_\_  
Tom FitzGerald  
314 Wilkinson Boulevard  
P.O. Box 1070  
Frankfort, Kentucky 40602

*Kentucky Speleological Survey*

(502) 875-2428

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OF THE  
KENTUCKY SPELEOLOGICAL SURVEY, INC.**

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## **CHAPTER I - PARLIMENTARY AUTHORITY**

- A. The Board of Directors (herein after called the “Board”) shall:
1. Act as the governing and administrative body in conducting the buiseness of the Kentucky Speleological Survey (herin after called the “KSS”).
  2. Consist of the Officers and a Director from each member organization and at least two Directors at Large.
  3. Conduct business according to Robert's Rules of Order, revised as amended by these Bylaws.
  4. Conduct business only when at least two-thirds of all Directors are present in person or by proxy. A proxy shall have written authorization with him/her (at the meeting) from his/her organization, stating that he is their Director’s proxy.
  5. Conduct business by mail or e-mail when necessary. At least 2 weeks notice shall be provided for all such votes. All Directors shall be considered as present for the purposes of determining majority, any Director not responding shall be considered a negative vote.
- B. If the President has been selected from the members of the Board, his/her organization shall elect or appoint a Director to fill out his/her term.
- C. Items of business shall be passed by a simple majority, except as provided elsewhere in the Articles of Incorporation or the Bylaws.

## **CHAPTER II – DIRECTORS**

### **A. Organizational Directors:**

Each Organizational Director shall:

1. Be a member of the organization he/she represents.
2. Be elected or appointed to his/her position by the organization that he/she represents for a term to be determined by his/her organization, at a time convenient to his/her organization.
3. Not represent more than one organization.
4. Be the voting voice of his/her organization during the conduct of business at all meetings of the Board.
5. Have one vote during the conduct of business.
6. Be prepared to report to the Board at regular meetings the activities and progress of his/her organization.

### **B. Directors at Large:**

There shall be at least two Directors at Large elected from the individual membership. An additional Director shall be elected for each 100 individual members in excess of 100.

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Each Director at Large shall:

1. Be elected for a one-year term at the election meeting. Votes will be accepted by mail ballots. The nominees receiving the most votes shall be elected. The secretary shall mail ballots to all individual members 30 days prior to the election meeting.
2. Have one vote during the conduct of business.

### **CHAPTER III – OFFICERS**

The KSS shall elect a President, Vice President, Treasurer, and Secretary. All officers, other than President, may also serve as Directors and vote if serving in that capacity. All officers shall be elected by a simple majority of the Board at the election meeting and shall serve one-year terms beginning on March 1 of each year. Any officer may be removed by a two-thirds vote of the Board. Any vacancies during the year shall be filled by appointments from the President with Board approval.

A. The President of the Board shall:

1. Be responsible for assembling an agenda for each meeting.
2. Preside at all meetings.
3. Be the official spokesperson and envoy of the KSS.
4. Call special meetings.
5. Vote during the conduct of KSS business only in the event of a tie.

B. The Vice-President of the Board shall:

1. Assist the President.
2. Preside at all meetings in the absence of the President.
3. Shall assume the presidency upon the death or resignation or incapacitation of the president.

C. The Treasurer of the KSS shall:

1. Be responsible for all the funds of the KSS.
2. Be responsible for submitting a financial statement to the board at the election meeting.

D. The Secretary of the KSS shall:

1. Be responsible for the taking of minutes and the distribution of copies of these minutes to the Board of Directors after the meeting.
2. Be responsible for all correspondence and membership records of the KSS.

### **CHAPTER IV – MEMBERSHIP**

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### **A. Organizational Membership:**

1. Organizations wishing to join the KSS shall apply to the Membership Committee. Organizations are free to reapply at the next Membership Committee meeting if necessary.
2. Requirements of Applicants:  
The applicant shall submit the following to the Membership Committee prior to the committee meeting:
  - a. An adopted plan of organization indicating the governmental structure, name, and address of the organization.
  - b. A membership list, with a minimum of 5 members
  - c. A chosen Director.
  - d. Minutes of meetings, where appropriate, indicating that the organization has been in existence and operating actively for a period of one year or more preceding the date of application for membership.
  - e. A part of this application shall include agreement with goals of KSS, agreement not to divulge data of the corporation, and an understanding that membership does not grant specific rights to information.
3. The Board shall vote on the application for membership.
4. Privileges of member organizations shall be subject to review at the discretion of the Board.
5. Membership is not limited to Kentucky organizations.
6. All member organizations shall submit a report of their activities in support of the KSS. This report shall be sent to the secretary prior to the election meeting and shall include the name of the organization's Director for the coming year.

### **B. Individual Membership:**

Individuals wishing to join KSS shall do so by filing an application with the Secretary. A part of this application shall include agreement with goals of KSS, agreement not to divulge data held by the corporation, and an understanding that membership does not grant specific rights to information. Individual membership is not limited to residents of Kentucky.

## **CHAPTER V – CONFLICT OF INTEREST**

No individual or organizational member shall use their membership in KSS, their office, or any promise of data access for any personal or professional gain.

## **CHAPTER VI - AFFILIATION AND MEMBERSHIP FEES**

Each organization within the KSS shall be assessed an annual affiliation fee to provide monies to the General Fund. The amount of the fee shall be as determined by the Board and shall be due

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on the date of the annual meeting. Individual members shall be assessed a membership fee adequate to cover the cost of publications and finance the operations of the corporation.

### **CHAPTER VII - LOSS OF REPRESENTATION & MEMBERSHIP**

- A. An organization may lose its right to membership in the KSS if it:
  - 1. Acts in a manner detrimental to the KSS as determined by the Board.
  - 2. Fails to submit a report to the Board at the election meeting concerning its activities over the past year. This report shall show a constructive effort in relation to the purpose of the KSS as determined by the Board.
  - 3. Fails to pay affiliation fee within two months from date due.
  - 4. Fails to attend or send proxy for two consecutive meetings.
  - 5. Disbands
- B. An individual may lose their membership if they fail to pay dues or if they act in a manner detrimental to the KSS as determined by the Board.

### **CHAPTER VIII - MEETINGS**

There shall be a minimum of two meetings a year. One of these shall be called the Election Meeting and should be held in January or February each year.

### **CHAPTER IX – PUBLICATIONS**

The KSS shall publish such publications as deemed necessary for the accomplishment of its purposes. The editor(s) of such publications shall be appointed by the President subject to the approval of the Board. The Board shall set fees for publications.

### **CHAPTER X – INTERNAL PROJECTS**

The Board shall approve any projects to be undertaken by the KSS, in the name of, or on behalf of the KSS. These projects shall use the data access process outlined in Chapter XII.

## **CHAPTER XI – COMMITTEES**

The KSS shall have the following standing committees. All committee members will serve a one-year term.

### **A. Nominations Committee**

The President shall appoint, with the Board's approval, a three member nominating committee who shall offer a slate of officers and Members at Large 45 days prior to the annual meeting. An alternative slate shall also be nominated if sponsored by at least ten Directors or members of KSS. The Nominating Committee shall oversee the election process.

### **B. Membership Committee**

The President shall appoint, with the Board's approval, a three member Membership Committee to review and submit a report on organizations requesting membership status. The report shall make recommendations as to whether the organization should be allowed membership at that time.

### **C. Data Administration Committee**

The President shall appoint, with the Board's approval, a Data Administration Chair to lead committee efforts dealing with the KSS library and database.

### **D. Appeals Committee**

The President shall appoint, with the Directors' two-thirds majority approval, an Appeals Committee Chair to lead committee efforts. The balance of the committee shall consist of the President, Vice-President, Treasurer, Secretary, and Data Administration Chair.

### **E. Data Access Committee**

The President shall appoint, with the Directors' two-thirds majority approval, a three- person committee to consider requests to the KSS for data and information.

## **CHAPTER XII - DATA**

The data of the corporation will be held in repository by the Kentucky Geological Survey (KGS) as agreed in a Memorandum of Understanding maintained between the KGS and the Board. This Memorandum shall be included as an addendum to the Bylaws.

A. The data of the corporation will be categorized as:

#### **1. Non-Sensitive Data:**

Information for which there are no access restrictions in that it poses negligible risk of harm to cave or karst features and their contents, or to the owners of such features.

This applies only to data specifically released by the Board and may include number

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of caves per county, cave lengths, and similar statistical data unless classified as proprietary by the land or data owner.

### **2. Sensitive Data:**

Information restricted from distribution in that it poses possible risk of harm to cave or karst features and their contents, to the owners of such features, or to individuals that may enter such features. Such information includes but is not limited to the precise locations of the features, the names and addresses of the owners, cave maps or other specific data.

### **3. Proprietary Data:**

Information of any kind given to this corporation by the owner of a cave or karst feature, the owner's representative, or the person who has developed the data, with the condition that it shall not be released without the prior express consent of the submitter.

- B. Data shall be available for the advancement of the purposes stated in Article IV of the Articles of Incorporation of the KSS. These purposes specifically do not include recreational caving or commercially led trips.
- C. Anyone submitting data may restrict the data as proprietary by agreement with the KSS. Such proprietary data shall not be released without the prior express consent of the submitter. Submitters maintain ownership and distribution rights to their original data.
- D. Requests for data, whether for internal or external use, shall be forwarded to the Data Access Committee. A person requesting data shall be required to submit a KSS request form and pertinent resume to the committee in order for the request to be evaluated. The nature of the request and an opportunity for feedback shall be distributed to the KSS member's e-mail list 5 days prior to any consideration of the Data Access Committee. The Data Access Committee shall be unanimous in their decision to approve the information request. Any Data Access Committee member involved in a request shall abstain from the vote and the Vice President shall vote in his place. The committee shall track requests and the history of member's use of information. Non-Sensitive data may be distributed without request to the Data Access Committee.
- E. If the request is denied, appeal can be made to the Appeals Committee. Decisions of the Appeals Committee shall require a 2/3 vote of all members of the committee to release data. Decisions of the Appeals Committee may be appealed to the full board by either the requestor or the Data Access Committee. Board decisions regarding appeals shall require a 2/3 majority to overturn the Appeals Committee decision.
- F. Ownership, distribution, and replication rights are specifically not granted to any requesters. Requesters shall sign a confidentiality agreement stating that they shall not disseminate this information without written permission of the committee. Wherever applicable the requester shall make a report stating the scope of their use of the data and any findings to the KSS in a timely manner.
- G. The committee shall report all data requests and their disposition to the President on a monthly basis. The President shall report this information to the Board at the next Board meeting.

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- H. Recreational Caving shall be defined as exploring, touring, visiting or exploiting caves for amusement, sport or adventure without making, documenting, and reporting scientific observations to an established speleological or other scientific organization.

### **CHAPTER XIII – AMENDMENTS**

The Bylaws of the KSS, with the exception of Chapter I, may be amended by a majority vote of the Board. Amendments to Chapter I shall require a 2/3 majority vote of the Board. All amendments shall be presented in writing to the Board at least forty-five (45) days prior to the meeting.

KSS Bylaws version 11.11.00

**KENTUCKY NONPROFIT CORPORATION ACTS**

Sections cited in the Articles of Incorporation  
of the  
Kentucky Speleological Survey

**273.171 General powers.**

Each corporation shall have power:

- (1) To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation.
- (2) To sue and be sued, complain and defend, in its corporate name.
- (3) To have a corporate seal and alter it at pleasure, provided, however, that the presence or absence of a corporate seal on or from a writing shall neither add to nor detract from the legality thereof nor affect its validity in any manner or respect.
- (4) To purchase, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or any interest therein, wherever situated.
- (5) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.
- (6) To lend money to its employees, other than its officers and directors, and otherwise assist its employees, officers and directors.
- (7) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships or individuals, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof.
- (8) To make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises and income.
- (9) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.
- (10) To conduct its affairs, carry on its operations, and have offices and exercise the powers granted by KRS 273.161 to 273.390 in any state, territory, district, or possession of the United States, or in any foreign country.
- (11) To elect or appoint officers and agents of the corporation, who may be directors or members, and define their duties and fix their compensation.
- (12) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation.
- (13) Unless otherwise provided in the articles of incorporation, to make donations for the public welfare or for charitable, scientific or educational purposes; and in time of war to make donations in aid of war activities.

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(14) To indemnify any director or officer or former director or officer of the corporation, or any person who may have served at its request as a director or officer of another corporation in which it owns shares of capital stock or of which it is a creditor, against expenses actually and reasonably incurred by him in connection with the defense of any action, suit or proceeding, civil or criminal, in which he is made a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty to the corporation; and to make any other indemnification that shall be authorized by the articles of incorporation or bylaws, or resolution adopted after notice to the members entitled to vote.

(15) To pay pensions and establish pension plans or pension trusts for any or all of its directors, officers and employees.

(16) To cease its corporate activities and surrender its corporate franchise.

(17) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized.

**Effective:** January 1, 1989

**History:** Amended 1988 Ky. Acts ch. 23, sec. 179, effective January 1, 1989. – Created 1968 Ky. Acts ch. 165, sec. 5.

**273.263 Procedure to amend articles of incorporation.**

Amendments to the articles of incorporation shall be made in the following manner:

- (1) If there are members entitled to vote thereon, the board of directors shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of members entitled to vote thereon, which may be either an annual or a special meeting. Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member entitled to vote at such meeting within the time and in the manner provided in KRS 273.161 to 273.390 for the giving of notice of meetings of members. The proposed amendment shall be adopted upon receiving at least two thirds (2/3) of the votes which members present at such meeting or represented by proxy are entitled to cast.
- (2) If there are no members, or no members entitled to vote thereon, an amendment shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office.
- (3) Any number of amendments may be submitted and voted upon at any one (1) meeting.
- (4) Proposed amendments may be incorporated into restated articles of incorporation which contain a statement that except for the designated amendment the restated articles of incorporation currently set forth, without change, the corresponding provisions of the articles of incorporation as theretofore amended, and that the restated articles of incorporation together with the designated amendment supersede the original articles of incorporation and all amendments thereto.

**Effective:** July 15, 1980

**History:** Amended 1980 Ky. Acts ch. 294, sec. 7, effective July 15, 1980. -- Created 1968 Ky. Acts ch. 165, sec. 33.

**KENTUCKY CAVE LAW  
KRS 433.871-885**

**433.871 Definitions.**

As used in this chapter, the following words shall have the meanings stated unless the context requires otherwise:

- (1) "Cave" means any naturally occurring void, cavity, recess, or system of interconnecting passages beneath the surface of the earth containing a black zone including natural subterranean water and drainage systems, but not including any mine, tunnel, aqueduct, or other man-made excavation, which is large enough to permit a person to enter. The term "cave" includes or is synonymous with "cavern."
- (2) "Commercial cave" means any cave utilized by the owner for the purposes of exhibition to the general public, whether as a profit or nonprofit enterprise, wherein a fee for entry is collected.
- (3) "Gate" means any structure or device situated so as to limit or prohibit access or entry to any cave.
- (4) "Person" or "persons" means any individual, partnership, firm, association, trust, or corporation or other legal entity.
- (5) "Owner" means a person who owns title to land wherein a cave is located, including a person who owns title to a leasehold estate in the land and specifically including the Commonwealth and any of its agencies, departments, boards, bureaus, commissions, or authorities as well as counties, municipalities and other political subdivisions of the Commonwealth.
- (6) "Speleothem" means a natural mineral formation or deposit occurring in a cave. This shall include or be synonymous with, but not restricted to stalagmite, stalactite, helectite, shield, anthodite, gypsum flower and needle, angel's hair, soda straw, drapery, bacon, cave pearl, popcorn, coral, rimstone dam, column, palette, flowstone, et cetera.
- (7) "Speleogen" means an erosional feature of the cave boundary and includes or is synonymous with, but not limited to anastomoses, scallops, rills, flutes, spongework, boxwork, and pendants.
- (8) "Material" means all or any part of any archaeological, paleontological, biological, or historical item including, but not limited to, any petroglyph, pictograph, basketry, human remains, tool, beads, pottery, projectile point, remains of historical mining activity or any other occupation, found in any cave.
- (9) "Cave life" means any life form which normally occurs in, uses, visits, or inhabits any cave or subterranean water system, excepting those animals and species covered by any of the game laws of the Commonwealth of Kentucky.
- (10) "Troglobitic" means or refers to any form of cave life specifically adapted to the cave environment and which carries out its entire life cycle in the cave.
- (11) "Troglophilic" means or refers to any form of cave life which, although lacking specific biological adaptations necessary for permanent residence in any cave, carries out at least a portion of its life cycle in the cave.

**433.873 Wrongful disturbance or damage to cave surfaces or material found therein.**

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(1) It shall be unlawful for any person, without the express, prior, written permission of the owner, to willfully and knowingly:

(a) Break, break off, crack, carve upon, write, burn, or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar or harm the surfaces of any cave or any material which may be found therein, notwithstanding whether such material is attached or broken, including speleothems, speleogens, and sedimentary deposits. The provisions of this section shall not prohibit minimal disturbance for scientific exploration.

(b) Break, force, tamper with or otherwise disturb a door, lock, gate, or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained.

(c) Place any gate or other obstruction which may restrict the movement of air or animals through such device.

(d) Deface, tamper with or remove a sign stating that a cave is posted or citing provisions of this chapter.

(e) Excavate, remove, destroy, injure, deface, or in any other manner disturb any burial grounds, historic or prehistoric resources, archaeological or paleontological site or any part thereof, including fossils, bones, relics, inscriptions, saltpeter workings, remains of historical human activity, or any other such features which may be found in any cave, except those caves owned by the Commonwealth or designated as Commonwealth archaeological sites or zones, and which are subject to the provisions of KRS 164.705 to 164.735.

(2) The entering or remaining in a cave which has not been posted by the owner shall not by itself constitute a violation of this section.

### **433.875 Unlawful dumping, disposal or burning within cave.**

It shall be unlawful to store, dump, litter, dispose of or otherwise place any refuse, garbage, dead animals, sewage, toxic substances harmful to cave life or humans, or to store other such similar materials in any quantity in any cave. It shall also be unlawful to burn within a cave any material which produces any smoke or gas which is harmful to any naturally occurring organisms in the cave, except acetylene gas produced by carbide lamps.

### **433.877 Unlawful removal or disturbance of naturally occurring organisms in cave.**

(1) It shall be unlawful to remove, kill, harm, or otherwise disturb any naturally occurring organism found within any cave, except for safety or health reasons. Scientific collecting permits may be obtained from the state nongame biologist.

(2) It shall also be unlawful to collect any form of troglobitic or troglomorphic cave life for commercial sale, whether or not a profit is gained by such sale.

### **433.879 Excavation permits -- Requirements -- Supervision by state archaeologist and Kentucky Heritage Council.**

(1) In addition to the written permission of the owner required by KRS 433.873(1), a person shall also obtain a permit from the state archaeologist prior to excavating or removing any archaeological, paleontological, prehistoric or historic feature of any cave. The state

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archaeologist shall issue a permit to excavate or remove such a feature if he finds that it is in the best interest of the Commonwealth and that the applicant meets the criteria of this section and is an historic, scientific or educational institution, professional archaeologist or amateur who is qualified and recognized in the areas of field investigations or archaeology. The permit shall be issued for a period of two (2) years and may be renewed upon expiration. The permit shall not be transferable; however, the provisions of this section shall not preclude any person from working under the direct supervision of the permittee.

(2) All field investigations, explorations or recovery operations undertaken under this section shall be carried out under the general supervision of the state archaeologist and the Kentucky Heritage Council and in a manner to ensure that the maximum amount of historic, scientific, archaeological, and educational information may be recovered and preserved in addition to the physical recovery of objects.

(3) A person applying for a permit pursuant to this section shall:

- (a) Have knowledge of archaeology, paleontology or history as qualified in subsection (1) of this section;
- (b) Provide a detailed statement to the state archaeologist giving the reasons and objectives for excavation or removal and the benefits expected to be obtained from the contemplated work;
- (c) Provide data and results of any completed excavation, study, or collection at the first of each calendar year;
- (d) Obtain the prior written permission of the owner if the site of the proposed excavation is on privately owned land; and
- (e) Carry the permit while exercising the privileges granted.

### **433.881 Unlawful sale of speleothems.**

It shall be unlawful for any person to sell or offer for sale any speleothems in this Commonwealth, export them for sale outside the Commonwealth, or import speleothems into the Commonwealth for sale.

### **433.883 Cave owner or his agent not to be held liable.**

(1) Neither the owner of a cave nor his authorized agents acting within the scope of their authority shall be liable for injuries sustained by any person using the cave for recreational or scientific purposes if no charge has been made for the use of the cave, notwithstanding that an inquiry may have been made as to the experience or expertise of the person or persons seeking consent.

(2) Nothing in this section shall be construed to constitute a waiver of the sovereign immunity of the Commonwealth or any of its boards, departments, bureaus or agencies.

### **433.885 Penalties.**

(1) Any violation of KRS 433.873 to 433.877 or 433.879(1) shall be punished as a Class A misdemeanor.

(2) Any violation of KRS 433.879(3) or 433.881 shall be punished as a Class B misdemeanor.

**Effective:** July 15, 1988

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**History:** Created 1988 Ky. Acts ch. 168, sec. 8, effective July 15, 1988.