

## 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) "Troglotic" 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) "Trogliphilic" 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. (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 troglophilic 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 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, archaeologic, 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 History: Created 1988 Ky. Acts ch. 168, sec. 8, effective July 15, 1988.

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.

KENTUCKY NONPROFIT CORPORATION ACTS Sections cited in the Articles of Incorporation of the BlueGrass Karst Conservancy 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. (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.