

## **400 KAR 2:080. Dedication of nature preserves and registration of natural areas.**

RELATES TO: KRS 146.410, 146.420, 146.440, 146.470, 146.490, 146.505

STATUTORY AUTHORITY: KRS 146.460, 146.465, 146.475, 146.485, 146.495

NECESSITY, FUNCTION, AND CONFORMITY: KRS 146.485 requires the office to establish requirements for the selection, acquisition, management, protection, and use of natural areas and nature preserves, and to maintain a state registry of natural areas, an inventory of natural types, flora and fauna, and other records of natural areas and nature preserves. This administrative regulation establishes procedures for the dedication and maintenance of nature preserves and the registration and maintenance of inventories relating to natural areas and nature preserves.

Section 1. Dedication of Nature Preserves. (1) Upon the determination by the director, in accordance with KRS 146.485(6), (9), and (12), that an area constitutes a natural area worthy of protection through dedication as a nature preserve, and that the owner is willing to have the land or a portion thereof dedicated as a nature preserve, the office may dedicate the natural area as a nature preserve.

(2)(a) A natural area shall become a nature preserve upon signature of the director upon the articles of dedication.

(b) Articles of dedication shall be recorded in the county in which the natural area is located, the office of the secretary of state, and the office.

Section 2. Articles of Dedication. (1) The articles of dedication shall be used for the management of each nature preserve. Management, use, development, and public access of each nature preserve shall be in accordance with the provisions set forth in the articles of dedication.

(2) The articles of dedication may contain restrictions relating to management, use, development, transfer, and public access, as well as other provisions as necessary to further the purposes of the Act.

(3) Articles of dedication may vary in provisions from one (1) nature preserve to another in accordance with differences in the characteristics and conditions of the area involved, or for other reasons found necessary by the office and the landowner, grantor, deviser, or donor.

Section 3. Amendment of Articles of Dedication. (1) Articles of dedication may be amended by the office upon a finding that the amendment shall not permit an impairment, disturbance, use, or development of the nature preserve inconsistent with the purposes for which the area was dedicated or inconsistent with the Act. An amendment to articles of dedication shall not be made without the written approval of the Kentucky Heritage Land Conservation Fund Board in accordance with KRS 146.570(3).

(2) If fee simple ownership is not held by the Commonwealth of Kentucky, an amendment to the articles of dedication shall not be made without the written consent of the owner of other interests therein.

(3) Findings and determinations of the office to amend articles of dedication shall be set forth in the minutes of the board.

Section 4. Buffer Areas. (1) For the purpose of protecting a nature preserve, adjoining land that is not otherwise suitable for dedication as part of the nature preserve may be dedicated as a buffer area in the same manner as a nature preserve.

(2) The articles of dedication may contain provisions for the management, use, develop-

ment, and public access of the buffer area that differ from those for the adjacent nature preserve.

Section 5. Registration of Natural Areas. (1) Upon the determination by the director, in accordance with KRS 146.485(6), (9), and (12), that an area constitutes a natural area worthy of preservation, which is not otherwise available for dedication, the area shall be entered into the register of natural areas.

(2) An area shall not be registered without the consent of the landowner or managing public agency.

(a) The consent may include an agreement by the landowner to give notice to the office of any change in ownership, allow limited public access, or include voluntary management agreements designed to protect the natural features of the area.

(b) Upon request of the landowner or managing public agency the location of registered areas shall be kept confidential and not released as a public record of the office. Specific information as to the location of the registered natural area also may, upon determination by the office, be restricted so as to assure protection of the natural features and limit uncontrolled visitation.

(3) Registration of certain natural areas, where no landowner or managing public agency can give consent, involving stream segments deemed waters of the Commonwealth, as defined by KRS 224.1-010(32), shall be by determination of the office.

(4) Natural areas owned in fee simple by the office, but not dedicated as a nature preserve, shall be managed under a management plan in accordance with 418 KAR 1:060 and this chapter.

Section 6. Identification of Natural Areas. For the purposes of identifying natural areas for potential conservation, the office shall develop, maintain, and periodically update an inventory database of natural types, ecological communities, flora and fauna. The office shall use the inventory database, and the best available scientific information, to identify species and ecological communities to be monitored by the office. This inventory database and all relevant scientific data collected by the office or other from research, studies, inventories, management plans, permits, or other means shall be incorporated into a central clearinghouse database pursuant to KRS 146.485.

Section 7. Selection of Custodian. (1) If the office has acquired an interest less than fee simple in a nature preserve, the selection of a custodian may be made by the owner of the other interest therein, in accordance with 400 KAR Chapters 2 through 4 and the articles of dedication for the nature preserve. Otherwise the office shall determine the custodian, if any in accordance with KRS 146.485(6), (9), and (12).

(a) The custodian shall demonstrate to the office the ability to administer the nature preserve in accordance with the articles of dedication and 400 KAR Chapters 2 through 4.

(b) The office shall act as custodian of a nature preserve until such time as a custodian is approved, or if the custodian fails to administer a nature preserve in accordance with the articles of dedication and 400 KAR Chapters 2 through 4.

(2) If the office has acquired a fee simple interest in a nature preserve, the office may select a custodian.

(a) The office shall publish notice of its intent to select a custodian in the county or counties, in which the preserve is located, and for the state at large.

(b) The notice shall state:

1. The location of the nature preserve;

2. Where the articles of dedication are recorded;
3. That a written proposal shall be submitted to the office;
4. The date by which the proposal shall be submitted; and
5. The address to which the proposal shall be submitted.

(c) The date by which the written proposal shall be submitted to the office shall be not less than sixty (60) days after the date of publication of the notice.

(d) A hearing shall be conducted for the purpose of selecting a custodian pursuant to the provisions of 400 KAR 2:100. (13 Ky.R. 1321; eff. 2-10-1987; 45 Ky.R. 1773, 2601; eff. 4-5-2019.)