

**400 KAR 2:090. Management, use, and protection of nature preserves and natural areas.**

RELATES TO: KRS 146.410, 146.440, 149.175

STATUTORY AUTHORITY: KRS 146.465, 146.475, 146.485

NECESSITY, FUNCTION, AND CONFORMITY: KRS 146.485(2) authorizes the commission to promulgate administrative regulations for the management, use, and protection of nature preserves. KRS 146.465 authorizes the commission to acquire natural areas for the purpose of dedicating the areas as nature preserves. KRS 146.475 requires that a nature preserve shall be subject to administrative regulations promulgated by the commission. This administrative regulation establishes the requirements for the management and use of all nature preserves and to fulfill the purposes of KRS 146.440.

Section 1. Applicability. This administrative regulation shall apply to a nature preserve unless a specific exception is set forth in the articles of dedication. The reasons for any exception shall be set forth in the records of the office. This administrative regulation shall also apply to undedicated natural areas protected by the office unless a specific exception is set forth in the management plan or an administrative regulation.

Section 2. Boundary Markers.

(1) Boundaries shall be made evident by posting boundary markers in a conspicuous manner.

(2) If a boundary fence or barrier is installed, it shall not be in a form that will create a detrimental effect on the movement of wildlife or other natural objects.

Section 3. Encroachments. There shall not be encroachments of structures, easements, rights-of-way, or land uses that do not conform to this administrative regulation and with the purposes and definition of a nature preserve or natural area as established in KRS 146.410 to 146.530, except as allowed by the nature preserves articles of dedication or natural area management plan.

Section 4. Emergency Situations.

(1) An emergency situation shall be reported immediately to the office.

(2) An emergency situation that requires immediate action to prevent injury to persons or damage to property shall be handled in a manner that minimizes damage to natural conditions.

Section 5. Internal Access Lanes.

(1) An internal vehicular access lane shall be installed and maintained only where essential for patrol, fire control, management, or research activities and shall be in accordance with the management plan.

(2) An internal vehicular access lane shall:

(a) Be limited to service vehicles or, in an emergency situation, rescue vehicles; and

(b) Provide a single track not to exceed ten (10) feet in width.

Section 6. Fire Control.

(1) If a firebreak is needed, it shall be constructed in a buffer area if possible.

(a) A firebreak shall be kept to a minimum and shall be constructed only in accordance with the management plan and prescribed fire plan.

(b) A temporary firebreak made by mowing, raking, blowing, wetting, or black lining may be

used in conjunction with a prescribed burn.

(2)(a) A wildfire shall be brought under control as quickly as possible if there is imminent danger to lives or adjacent property.

(b) Fire lines on nature preserves shall be constructed with hand tools or mowing equipment rather than heavy equipment, to minimize damage to the preserve.

(c) If there is no danger to lives or adjacent property and the fire can be contained at the boundary, the office may assess the benefit of allowing a wildfire to burn and shall inform the entity having fire suppression responsibility of its decision to suppress a wildfire or to allow it to burn.

(d) There shall not be any cleanup, fire hazard reduction, or replanting after a fire within a nature preserve, except with the written approval of the office. Approval shall be based upon health and safety considerations or the need for habitat restoration.

(3) If undertaken, prescribed burning shall be conducted in accordance with a prescribed fire plan prepared for each burn unit, approved by the executive director, and in accordance with the management plan. Prescribed burn plans shall be to current Kentucky Prescribed Fire Council Standards pursuant to KRS 149.175. Prescribed burn lines may be constructed with heavy equipment only if required for habitat restoration implementation under the management plan.

(4) During a prescribed burn:

(a) Fire shall be kept away from fences and other structures that could be damaged;

(b) Burning shall not be done under conditions more hazardous than specified in the prescribed burn plan;

(c) Firefighting chemicals that are known to cause damage to or alter a natural condition shall not be used; and

(d) The use of a vehicle or equipment shall:

1. Be specified in the prescribed burn plan; and

2. Not cause permanent damage or alteration to the natural features of a nature preserve.

## Section 7. Trails.

(1) A trail system shall conform to the objectives of the nature preserve or natural area. A trail shall:

(a) Be designed to affect only part of the property and to have minimal impact on natural features; and

(b) Not have a significant impact on animals or plants monitored by the office or on archaeological resources located within the property.

(2) Location and form of a trail other than a natural wildlife path shall be approved or denied by the office, in accordance with the management plan.

(3) A trail shall be kept to a single file width sufficient to allow one (1) person to pass another but not wide enough to allow two (2) or more people to walk abreast of one another and shall be adequate to provide for permitted use of a nature preserve and to prevent erosion, trampling of vegetation, and other deterioration. A wider trail may be constructed if the surrounding vegetation type, such as grasslands would require excessive maintenance to keep the trail open, or a wider preexisting path was established prior to designation as a nature preserve or natural area. These wider trails shall be specified in the nature preserve management plan.

(4) Trail construction.

(a) Use of paving materials, footbridges, or elevated walks shall be permissible if provided for in the trail plan section of the management plan, but shall be kept to a minimum in order to limit damage.

(b) Synthetic materials, painted or chemically treated wood, or stone or earth materials from

outside the property shall not be used in trail construction unless specified in the management plan.

(5) Animals or plants monitored by the office shall not be removed, damaged, or altered in trail construction or maintenance.

#### Section 8. Other Structures and Improvements.

(1) Necessary signs, information kiosks, trash receptacles, and minor structures required to house research instruments or hand tools shall be permitted within a nature preserve or natural area if specifically required in the management plan or permitted by the office for activities consistent with KRS 146.200 through 146.619.

(2) Any other structure in a dedicated nature preserve shall be located in a service area.

(3) Any sign or structure shall be approved or denied by the office, in accordance with the management plan.

Section 9. Service Areas. Service areas may be established within a nature preserve to provide access and parking, management facilities, and visitor facilities. Provision for a necessary service area may be included in the articles of dedication or after a finding by the office that the designation is warranted and in accordance with the articles of dedication.

#### Section 10. Scenic and Landscape Management.

(1) Measures shall not be taken to alter natural growth or features for the purpose of enhancing the beauty, neatness, or amenities of a nature preserve, except as established in this section and Sections 2, 5, and 7 through 9 of this administrative regulation. Cutting of grass, brush, or other vegetation, thinning of trees, removal of dead wood, opening of scenic vistas, or planting shall not be performed except after a finding by the office that the action does not irreparably harm the preserve and is in accordance with the management plan.

(2) Installation of guard rails, fences, steps, and other devices necessary for visitor safety shall conform to the management plan. Dead trees or branches that constitute a safety hazard to persons on trails or in other authorized use areas may be felled or cleared.

(3) Except as provided in articles of dedication or as approved by the office, there shall not be any removal, introduction or consumptive use of any material, product, or object from a nature preserve, except as established in this administrative regulation. The following activities shall be prohibited on dedicated nature preserves:

(a) Grazing by domestic animals;

(b) Farming;

(c) Gathering of firewood;

(d) Gathering of plant or mushroom products;

(e) Mining, quarrying or mineral extraction, or fossil or rock collection;

(f) Dumping, burying, or spreading of garbage, trash, or other materials;

(g) Logging; and

(h) Any other human activity that results in damage to or loss of natural features of the preserve.

(4) An artifact on a nature preserve shall only be removed or demolished as follows:

(a) An old interior fence may be removed. Prior to removal, its location shall be mapped, leaving posts to mark boundaries between former land uses; and

(b) Rubbish may be removed.

(5) Structures lacking utilitarian, historical, scientific, or habitat value may be demolished or removed.

Section 11. Water Level Control. Natural water levels shall not be altered on nature preserves. Natural water levels on natural areas may be altered only if the office determines it is needed for habitat restoration to benefit monitored species or ecological communities and is part of the management plan. Water levels that have been altered by humans may be changed if identified as being essential for the maintenance or restoration of natural conditions.

Section 12. Erosion Control. Erosion and soil deposition due to past or present disturbance by humans or natural conditions within or outside of a nature preserve may be controlled as needed for the maintenance or restoration of natural conditions.

Section 13. Management of Animals and Plants.

(1) Control of plant succession.

(a) Control of plant succession by deliberate manipulation may be undertaken if preservation or restoration of a particular vegetation type or preservation of animals or plants monitored by the office is designated an objective of the nature preserve or natural area by the office.

(b) If undertaken, plant succession control measures shall be undertaken as established in the management plan to comply with objectives referenced in paragraph (a) of this subsection.

(c) Vegetation may be managed. If managed, the limitations established in subparagraphs 1. through 3. of this paragraph shall apply.

1. Plant species not native to the site or vicinity may be eliminated by cutting, girdling, grubbing, cut stump, or basal or foliar application of specified herbicide.

2. The time of burning during the year, the frequency of burning, and the fractional amount of the area that may be burned each year shall be specified.

3. Invading native woody species may be eliminated or controlled by cutting, girdling, grubbing, cut stump, or basal or foliar application of specified herbicide.

(d) The use of herbicides shall be specified in the management plan for each nature preserve natural area.

(2) Control of noxious species.

(a) Plants or animals that are determined by the office, in accordance with KRS 146.485(6), (9), and (12), to be noxious in fact shall be controlled only if they are documented as jeopardizing populations of plants and animals or the natural integrity.

(b) Except for removal from a trail, access lane, or firebreak as authorized by this administrative regulation, there shall not be any control of a native plant that is not noxious but could otherwise appear undesirable.

(c) There shall not be any control of native predators, rodents, insects, snakes, or other animals, even though they could appear harmful or undesirable, unless they are documented as jeopardizing populations of native plants or animals, or the natural integrity.

(d) There shall not be any use of a pesticide except as authorized in the management plan.

(3) Control of exotic species.

(a) Control of exotic plants or animals may be undertaken. If control of exotic plants is undertaken, it shall be done in accordance with subsection (1)(c) of this section.

(b) If control of exotic animals is undertaken it shall be done in accordance with subsection (2) of this section.

(4) Any measure for population control of any species shall be established in the preserve management plan.

(5) Management of plants or animals monitored by the office and species of management concern.

(a) Habitat manipulations and protective measures in favor of particular species shall be undertaken only as approved by the office. Approval shall be based upon a finding by the office

that describes the proposed activities and addresses species life history, habitat requirements of the species, characteristics and objectives of the preserve, and other relevant information.

(b) Control of plant succession in favor of particular species shall be as established in this administrative regulation.

(6) Introduction of plants and animals. Plants, animals, or their reproductive bodies shall not be brought into a nature preserve or moved from one (1) place to another within a preserve except with approval of the office. Approval shall be based upon scientific evidence documenting the species' historical occurrence in the ecosystem. Restoration shall be performed with caution and based on a finding that the actions shall not adversely affect natural conditions on the nature preserve. Habitat or species restoration on undedicated natural areas shall conform to the management plan.

#### Section 14. Use Tolerance.

(1) Human use of a nature preserve or natural area shall be allowed only to the extent and in a manner that shall not impair natural conditions.

(2) The articles of dedication or management plan may specify the controls and restrictions to be placed on access and use.

(3) The office as owner, or the landowner and the office upon agreement, may further restrict access and use as necessary to protect the nature preserve or natural area.

#### Section 15. Character of Visitor Activity.

(1) Visitor activity shall be regulated to prevent disturbance of a nature preserve or natural area beyond what it can tolerate without permanent deterioration. A visitor without a permit for research or educational activities shall be restricted to trails and areas open to off-trail use and may be otherwise restricted in movement. A person wishing to traverse a nature preserve or natural area elsewhere than on a trail or other area open to visitation shall obtain permission from the office.

(2) Public use shall be in accordance with the articles of dedication of a nature preserve or management plan of a natural area.

(3) Hunting, fishing, and trapping on a nature preserve shall not be allowed unless provided for in the articles of dedication for the nature preserve and shall be subject to 400 KAR Chapter 2. The office may approve hunting, fishing, trapping, or other control methods if necessary to ensure that the preserve is protected from a documented imbalance of species or impending animal disease. Hunting, fishing, and trapping on a natural area shall not be allowed unless provided for in the management plan and shall be subject to 401 KAR Chapter 2.

(4) Except for a service animal, a visitor shall not bring an animal into a nature preserve. A visitor shall not bring an animal into a natural area, except for a service animal, unless approved in the management plan.

(5) A visitor carrying a deadly weapon on a nature preserve or natural area shall not discharge the weapon unless it is necessary for either self-defense or hunting is provided for in the management plan, articles of dedication, if any, and in accordance with this administrative regulation.

(6) A nature preserve or natural area that is open to visitors shall be open sunrise to sunset.

(7) Trails shall be open to foot traffic only. Travel on horse, bicycle, or motorized vehicle shall be prohibited at all times.

(8) Rock climbing and rappelling shall be prohibited at all times.

(9) Possessing or using non-prescription drugs or alcohol shall be prohibited at all times.

(10) Camping, picnicking, building fires, using audio equipment (except if part of research approved by the office) in accordance with KRS 146.570(3) shall be prohibited at all times on

nature preserves and prohibited on natural areas unless approved in the management plan.

(11) Collecting plants, fungi, animals, minerals, rocks, wood, or artifacts shall be prohibited at all times except for approved scientific studies in accordance with Section 19 of this administrative regulation.

#### Section 16. Access Control.

(1) Ingress and egress shall be allowed only at locations and under conditions as may be specified by the office in the management plan.

(2) The owner, custodian, and office have the authority to further limit access as may be necessary for protection and proper management.

Section 17. Orientation and Guidance of Visitors. Orientation and guidance of visitors shall be in accordance with the articles of dedication or management plan, and as approved by the office. Interpretive signs, structures or labels shall be of uniform appearance.

#### Section 18. Permission for Research, Group, or Educational Activities.

(1) A person wishing to engage in research, group, or educational activities on a nature preserve or natural area shall secure prior permission of the office. If the activities are to be carried on by a group, permission may be issued to the group leader who shall be responsible for the actions of the group. Permission or denial shall be based upon information provided in the application for permission, the purpose stated for the research, and an assessment of any damage that could result from the activity.

(2) A permit shall be required for educational, research, or group use of a nature preserve or natural area if activities include collecting or activities other than walking and observation or if the preserve is not open to the public or if the group is larger than ten (10) individuals.

(3)(a) The application for a permit shall be on Natural Areas/Nature Preserves User Permit Application, KNP01 or Research Permit Application, KNP02 and shall include the:

1. Name of the applicant;
2. Mailing address and electronic mailing address of the applicant;
3. Occupation of the applicant;
4. Professional qualifications of the applicant;
5. General field of interest of the applicant; and
6. Description of the applicant's proposed activities, including the:
  - a. Objectives, methods, and procedures to be followed;
  - b. Records to be kept;
  - c. Location and duration of the project areas to be visited;
  - d. Frequency and length of visits; and
  - e. Detailed description of disturbances to be made.

(b) Information shall be provided on the:

1. Species or objects to be taken;
2. Number of specimens;
3. Method of taking; and
4. Disposition of specimens.

(c) The office shall provide permit application forms to persons requesting them.

(4)(a) The approved permit may contain specific provisions and restrictions.

(b) The permit may be modified, suspended, or revoked by the office for violations of the conditions of the permit, this section, or based upon a determination of the office that the activity jeopardizes the nature preserve or natural area.

(c) Each holder of a permit shall submit to the office an annual report or progress report as

directed in the permit.

(d) A permit for an activity of no more than the calendar year expires on December 31 of that year. A permit for an activity of longer than one (1) year may be extended annually upon submission of an annual report and request for an extension.

(e) A final report with results, including data collected in a format supplied by the office, shall be submitted at the conclusion of the research. This data may be incorporated by the office into a research clearinghouse and inventory database in accordance with KRS 146.485 and 400 KAR 2:080 Section 6.

#### Section 19. Collecting on Nature Preserves or Natural Area.

(1) A person wishing to collect a scientific specimen for deposition in a permanent institutional collection available to the public or for purposes of an approved research project shall do so pursuant to terms of permission as established in this administrative regulation.

(2) Permission may restrict the collecting of certain species or specimens. Material for classroom laboratory observation or study shall not be collected. Exceptions may be provided in the articles of dedication of the nature preserve, or as set forth in the management plan.

#### Section 20. Record.

(1) A record shall be kept for each nature preserve and natural area.

(2) One (1) copy of the record required by subsection (1) of this section shall be held by the office at its Frankfort location.

(3) The record shall include reports from the custodian and all other pertinent documentary material, studies, reports, and descriptions of significant events.

(4) Responsibility for assembling the record shall be with the office, in conjunction with any custodian of a nature preserve.

Section 21. Management Plan. Each nature preserve and natural area shall be managed in strict accordance with the most recent management plan in compliance with the requirements of KRS 146.200 through 146.619, articles of dedication if any, and this chapter that sets forth the allowable activities to take place on the nature preserve or natural area as related to:

(1) Natural community and rare species protection;

(2) Resource restoration and enhancement;

(3) Archeological and historical resource protection;

(4) Staffing;

(5) Security;

(6) Safety;

(7) Public access and interpretation;

(8) Maintenance of the nature preserve or natural area;

(9) Coordination of management activities with adjacent landowners and other federal and state resource protection agencies; and

(10) Research and education.

#### Section 22. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Natural Areas/Nature Preserves User Permit Application, KNP01, July 2018; and

(b) Research Permit Application, KNP02, July 2018.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Kentucky Nature Preserves 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. (13 Ky.R. 1322; eff. 2-10-1987; 38 Ky.R. 623;

1123; 1-6-2012; 45 Ky.R. 1776, 2602; eff. 4-5-2019.)