

## **SECTION 205.100: PENALTIES AND REMEDIES**

Any person who violates any requirement or provision of these Rules and Regulations shall be deemed guilty of a misdemeanor and shall be prosecuted, tried and punished as provided by law. The penal remedy provided herein shall not be exclusive and the County may seek and obtain any other relief provided for in equity or at law. (County Order No. 6-96, 5-30-96; County Order No. 14-10, 6-28-10)

## **CHAPTER 210: CONCENTRATED ANIMAL FEEDING OPERATIONS— HEALTH REGULATIONS ESTABLISHED**

*Editor's Note—Appendix A, B and C are on file in the offices of the County Commission.*

## **SECTION 210.010: DEFINITIONS**

Unless the context clearly indicates to the contrary, words used in the present tense include the future tense and words used in the plural include the singular. The words, terms and phrases set forth in this Chapter shall have the meaning set forth in Sections 640.703 to 640.755 RSMo.; and ASAE Standard S292.4 (ASAE Standards 1994) published by the American Society of Agricultural Engineers; which documents are hereby incorporated by this reference as if set forth in their entirety herein, and which documents shall remain on file with the County Clerk for public inspection, unless a different meaning is prescribed in this Section. For purposes of this Chapter, the following words, terms and phrases shall have the following meanings unless otherwise indicated:

**ANAEROBIC LAGOON:** A lagoon in which the degradation of organic matter is conducted without the availability of free molecular oxygen.

**ANIMAL UNIT ("AU"):** A unit of measurement to compare various animal types at a concentrated animal feeding operation. One (1) animal unit equals the following: one (1.0) beef feeder or slaughter animal; five-tenths (0.5) horse; seven-tenths (0.7) dairy cow; two and five-tenths (2.5) swine weighing over fifty-five (55) pounds; fifteen (15) swine under fifty-five (55) pounds; ten (10) sheep; thirty (30) laying hens; fifty-five (55) turkeys; one hundred (100) broiler chickens or an equivalent animal unit. The total animal units at each operating location shall be determined by adding the animal units for each animal type.

**ANIMAL UNIT EQUIVALENT:** An equivalent animal type and weight that has a similar amount of manure produced as one (1) of the animal unit categories set forth in the definition of "animal unit" herein. This also applies to other animal types which are not specifically listed.

**ANIMAL WASTE:** Any animal excrement, animal carcass, feed waste, animal water waste or any other waste associated with animals.

**ANIMAL WASTE WATER:** Any of the following:

1. Animal excreta;
2. Process wastewater;

3. Any liquid which comes into contact with any manure, litter, bedding or other raw material or intermediate or final material or product used in or resulting from the production of animals or products directly or indirectly used in the operation of a CAFO;
4. Any spillage or overflow from animal watering systems;
5. Any liquid used in washing, cleaning or flushing pens, barns or manure pits;
6. Any liquid used in washing or spraying to clean animals; or
7. Any liquid used for dust control on the premises of a CAFO.

*AQUIFER*: An underground, porous, water-bearing geological formation composed of a layer of permeable rock, sand or gravel that provides a ground water reservoir.

*AWMFH*: The Agricultural Waste Management Field Handbook published by the Soils Conservation Service of the United States Department of Agriculture and dated April 1992 and revised through July 1996, Chapters 1 through 17, which document is hereby incorporated by this reference as if set forth in its entirety herein.

*CENTER PIVOT IRRIGATION*: An automated irrigation system consisting of a sprinkler line rotating about a pivot point at one (1) end and supported by a number of self-propelled towers. The water is supplied at the pivot point and flows outward through the line supplying the individual outlets.

*CLASS IA CAFO*: See Section 210.020(A) of this Chapter.

*CLASS IB CAFO*: See Section 210.020(B) of this Chapter.

*CLASS IC CAFO*: See Section 210.020(C) of this Chapter.

*CLASS II CAFO*: See Section 210.020(D) of this Chapter.

*COMMON OWNERSHIP*: Ownership by the same person, corporation, firm, entity, partnership, limited liability company, limited partnership or unincorporated association; or ownership by different corporations, firms, partnerships, entities, limited liability company, limited partnership or unincorporated associations in which a stockholder, partner or associate or a member of his/her family owns an interest in each corporation, firm, partnership, entity, limited liability company, limited partnership or unincorporated association.

*CONCENTRATED ANIMAL FEEDING OPERATION ("CAFO")*: All land and/or a lot, facility, parcel or operating location in which animals have been, are or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve (12) month period and a ground cover of vegetation is not sustained over at least fifty percent (50%) of the animal confinement area. A "concentrated animal feeding operation" shall not include any land area, structure, lot, yard or corral or other area which does not meet the numerical threshold for animals as set forth in the classification system of Section 210.020 of this Chapter. For purposes of this definition, the "concentrated animal feeding operation" means and refers collectively to an animal production facility which includes at least one (1) confinement area, livestock lagoon and a plant filter area. Two (2) or more confinement areas under common ownership are considered, for purposes of this Chapter, to be a single CAFO if they adjoin each other and use a common area or waste management system. For purposes of this Subsection, the use of common equipment or machinery shall not be considered a "common area or waste management system".

**CONFINEMENT AREA:** Any land area, structure, lot, yard, feedlot or corral or other area, whether enclosed with a roof or fence, or unenclosed, wherein livestock are confined in close quarters for the purpose of fattening, feeding, growing, raising or birthing such livestock for final shipment to market or slaughter. A "confinement area" includes any land area in which at least one (1)-hundred fifty (150) animal units are confined on not more than one (1) acre of land. A "confinement area" does not include unenclosed pasture areas which are used for the raising of crops or other vegetation upon which livestock are allowed to graze or feed. A "confinement area" includes the building or structure, including any feedlot, corral, barn or other enclosure, in which animals are confined but does not include contiguous land used as plant filter areas over which liquid waste is applied and/or other areas upon which grass or crops are used for waste disposal, landscaping or land upon which crops or other vegetation are raised independent from the animal feeding operations.

**CONSTRUCTION PERMIT:** A construction permit or letter of approval required of a CAFO by the Missouri Department of Natural Resources pursuant to the Missouri Clean Water Law.

**COUNTY HEALTH PERMIT:** Written authorization issued by the Platte County Commission to erect, construct, develop, use, occupy, expand, modify or operate a CAFO.

**DILUTION WATER:** Wash water, overflow from waterers, precipitation minus evaporation from the lagoon surface, and other water added to a lagoon which has not previously come into contact with manure or other waste materials.

**DRY LITTER:** A waste management system where the animals are confined on a floor that is covered with wood chips, rice hulls or similar materials and the resulting litter/manure mixture has at least fifty percent (50%) dry matter and is not exposed to precipitation or stormwater runoff during storage.

**FILTER STRIP:** A permanent vegetated strip designed to retard surface runoff and to remove sediment, nutrients and other contaminants from surface runoff.

**LAND:** Any land owned or leased by the CAFO to comply with the requirements of Section 210.040(9) herein.

**LAND APPLICATION:** The removal of wastewater and waste solids from a facility for the storage or retention of animal waste and distribution to, or incorporation into, the soil. "Land application" includes the injection, spraying or spreading of animal waste or animal wastewater onto a plant filter area.

**LEASE:** A written contract for the exclusive use of real property, which contract specifically grants unto the lessee the right to apply animal waste and animal wastewater to the leased premises.

**LINER:** A continuous layer of soil, manmade materials or both beneath and on the sides of a lagoon or other waste disposal area which controls and minimizes the downward or lateral escape of animal waste.

**LIVESTOCK:** Cattle, sheep, swine, poultry, and other animals or fowl which are being produced primarily for use as food or food products for human consumption.

**LIVESTOCK LAGOON OR LAGOON:** An excavated, earthen structure designed for the biological stabilization, treatment and/or storage of liquid wastes generated by a CAFO. A "lagoon" does not include a fully enclosed storage tank constructed of concrete or metal and designed for the storage of manure.

*MANUAL 115:* Missouri Approach to Animal Waste Management, Planning and Design Guidelines. (Manual 115 published by the University of Missouri-Columbia Extension Division and Missouri Department of Natural Resources, 1999, document is incorporated by reference as if set forth in its entirety herein.)

*MANUAL 121:* Manual 121, Design Guidelines for Animal Waste Management for Concentrated Animal Feeding Operations (published by the Missouri Department of Natural Resources, Water Pollution Control Program, Second Edition, July 1989).

*NUTRIENT APPLICATION LEVELS:* The levels of nutrients applied to the plant filter area.

*OCCUPIED DWELLING:* Any residence or any church, school, adult care home, medical care facility, child care facility, library, community center, public building, office building, licensed food establishment or lodging establishment which has been in use at any time during the twelve (12) month period immediately prior to the date upon which an application for a County health permit is submitted pursuant to this Chapter.

*OPERATING PERMIT:* An operating permit and/or letter of approval required of a CAFO by the Missouri Department of Natural Resources pursuant to the Missouri Clean Water Law.

*OWNER:* Anyone who owns, either individually and/or with any other persons, any of the following interests in the real property upon which a CAFO is situated:

1. Fee simple title;
2. A leasehold interest;
3. Any interest in any entity which holds fee simple title; or
4. Any interest in any entity which has a leasehold interest.

*PERSON:* Includes natural persons and also includes corporations, partnerships, associations, limited partnerships, limited liability companies, and any other business or charitable entities, including a natural person who has supervisory authority over the operation of a CAFO, whether or not such person is an owner of the CAFO, and a natural person who applies animal waste or animal wastewater originating from the CAFO.

*PLANT FILTER AREA:* Land with vegetative cover used or reserved for the application and/or infiltration of liquid wastes from a livestock lagoon.

*POPULATED AREA:* Any circular area inscribed by a radius of one thousand four hundred forty-two (1,442) feet and a circumference of nine thousand fifty-nine (9,059) feet (such area including not more than approximately one hundred fifty (150) acres) and having at least ten (10) occupied dwellings, which area is not on CAFO property, as measured in a straight line from the nearest occupied dwelling to the nearest CAFO confinement building, confinement lot or other confinement area or waste handling facility. (See Figure 1)

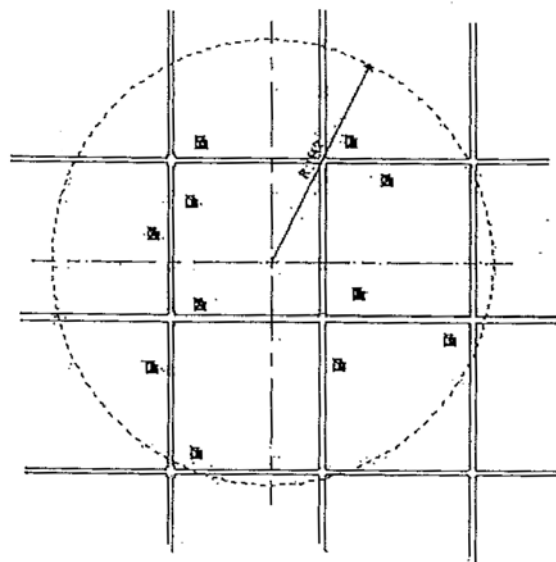


Figure 1: Populated Area Example (11 units, 1442' radius, 150 acres)

*PROCESS WASTEWATER:* Any wastewater as defined in 10 CSR 20-6.300(1)(B).15 (November 30, 1996) (defining "process wastes").

*PUBLIC USE AREA:* Any of the following:

1. A park or recreation area operated by Platte County or a municipal or State governmental agency; or
2. A school; or
3. A cemetery.

*REGISTERED ENGINEER:* An individual registered as an engineer in the State of Missouri.

*SETBACK:* The distance for the CAFO facility to the nearest occupied dwelling not on CAFO property, as measured in a straight line from the occupied dwelling to the nearest confinement area, lagoon or other waste handling facility.

*SHALLOW AQUIFER:* A saturated permeable geologic unit that can transmit significant quantities of water under ordinary hydraulic gradients.

*SLOPE:* The vertical drop divided by the horizontal distance of a land area multiplied by one hundred (100) and expressed as a percentage.

*WASTE MANAGEMENT SYSTEM:* Includes all flush, recycle, storage, digestion, pumping, irrigation, waste spreading, and solids handling facilities, equipment, machinery, sewers, piping, valves, land, tanks, basins, lagoons and any other device, method and process for beneficial use of animal waste and/or process wastewater.

*WET HANDLING SYSTEM:* The handling of manure that contains less than fifty percent (50%) dry matter or has free draining liquids. Wet handling includes the storage of dry manure or dry litter so that it is exposed to rainfall or stormwater runoff. (County Order No. 58-00, 10-26-00)

**SECTION 210.020: CLASSIFICATION OF CONCENTRATED ANIMAL FEEDING OPERATIONS**

- A. A Class IA CAFO is one (1) that has a capacity of at least seven thousand (7,000) AU.
- B. A Class IB CAFO is one (1) that has a capacity between three thousand (3,000) and six thousand nine hundred ninety-nine (6,999) AU inclusive.
- C. A Class IC CAFO is one (1) that has a capacity between one thousand (1,000) and two thousand nine hundred ninety-nine (2,999) AU inclusive.
- D. A Class II CAFO is one (1) that has a capacity of at least three hundred (300) but less than one thousand (1,000) AU. (County Order No. 58-00, 10-26-00)

**SECTION 210.030: PERMIT REQUIREMENTS FOR ALL CAFOS**

- A. No CAFO shall be erected, constructed, developed, used, operated, occupied, expanded to a different classification of CAFO or otherwise established in Platte County until a County health permit

authorizing the same has been issued by the Platte County Commission. Class II CAFOs in existence as of the effective date of this Chapter may expand to Class IC by notifying the County Commission and paying the permitting charges. Security requirements and remediation fees will not be assessed pursuant to Section 210.050 of this Chapter. To apply for a County health permit, the proposed CAFO shall submit to the County Commission all of the application materials submitted to the Department of Natural Resources, a completed application as set forth in Appendix B, held on file in the office of the County Commission, and an application fee as established pursuant to Section 210.090 of this Chapter. If the CAFO is issued a construction permit and an operating permit and if the proposed CAFO meets the requirements of this Chapter, then the County Commission shall also issue a County health permit.

- B. At least one (1) public hearing shall be held by the County Commission before approving any County health permit. Such public hearing may be continued from time to time and additional hearings may be held. The receipt and consideration of evidence at said hearings shall comply with the requirements of Section 536.070, RSMo.
- C. Once a CAFO has received a County health permit, the CAFO shall apply for a renewal of said permit each calendar year. All applications for renewal permits shall be submitted, along with the applicable renewal fee, at least thirty (30) days prior to the anniversary date of the issuance of the initial County health permit. If the County Commission determines that the CAFO has complied in all respects with the permit previously issued, then the County Commission will issue the renewal permit. Otherwise, the County Commission may not issue a renewal permit and the CAFO shall immediately cease operation.
- D. It shall be a violation of this Chapter and unlawful for any person not exempt from this Chapter to operate a CAFO without first obtaining a County health permit from the County Commission.
- E. It shall be a violation of this Chapter and unlawful for any person not exempt from this Chapter to operate a CAFO with a number of animal units in excess of the classification number specified in the permit issued by the County Commission.
- F. It shall be a violation of this Chapter and unlawful for any person not exempt from this Chapter to apply animal waste or animal wastewater in a manner inconsistent with the requirements of this Chapter. (County Order No. 58-00, 10-26-00)

#### **SECTION 210.040: RULES APPLICABLE TO ALL CAFOS**

The County Commission shall not issue a County health permit unless and until the County Commission has rendered findings of fact and conclusions of law that the proposed CAFO complies in all respects with the standards and criteria established herein. If the proposed CAFO does not comply in any respect with the standards and criteria established in this Section, the application for a County health permit shall be denied.

1. *Generally.* The proposed CAFO shall be in compliance with the provisions of Sections 210.040 through 210.060 of this Chapter, as applicable.
2. *Waste disposal.*
  - a. Design of the waste lagoons shall comply, at a minimum, with ANSI/ASAE EP403.2 (August 1993), published by the American Society of Agricultural Engineers, which standard is hereby incorporated by this reference as if set forth in its entirety herein, provided however, that where a different standard is prescribed by this Chapter, the

provisions of this Chapter shall govern. Center pivot irrigation shall not be permitted as a method of applying animal wastewater into the soils.

- b. Dilution water shall be provided at a rate of not less than four (4) times the annual amount of excreted manure. No animal waste shall be discharged into the lagoon until it has first been filled to not less than fifty percent (50%) of its design volume with fresh water which has not previously come into contact with animal waste. The waters in the lagoon shall at all times maintain a pH level of not less than 6.7. A minimum of two (2) feet of freeboard shall be maintained between the crest of any spillway or outflow device and the top of the lagoon embankment.
- c. A covered storage basin or covered manure storage structure may be used instead of a waste lagoon.
- d. The lagoon system and land application shall comply with the minimum requirements of 10 CSR 20-8 (March 11, 1979), which provision is hereby incorporated by reference as if set forth in its entirety herein, provided however, that if any requirement therein conflicts with any requirement of this Chapter, the provisions of this Chapter shall apply.

3. *Water quality.*

- a. All CAFOs shall be designed in such a manner as to avoid the unlawful degradation of the quality of surface or subsurface waters, watercourses or other bodies of water as defined in Chapter 7 of Division 20 of the Code of State Regulations.
- b. No lagoon, confinement area or plant filter area shall be located closer than three hundred (300) feet to a water source drawing from a bedrock formation with a sealed casing or within one hundred (100) feet of any public or private water well.
- c. The provisions of Subparagraphs (1–4) below shall apply only to any Class IB or Class IA CAFO and shall not apply to any CAFO existing on the effective date of this Chapter which does not exceed the number of animal units for a Class IC CAFO. The operator shall install monitoring wells as follows:
  - (1) At least one (1) monitoring well shall be installed upgradient from each confinement area and livestock lagoon, and at least one (1) monitoring well shall be installed downgradient from each confinement area and each livestock lagoon. Where a livestock lagoon receives waste from more than one (1) confinement area, one (1) upgradient monitoring well may be installed for all of the confinement areas and the livestock lagoon, and one (1) monitoring well may be installed downgradient from the confinement areas and livestock lagoons.
  - (2) At least one (1) monitoring well shall be installed upgradient from each area where waste is disposed (areas designated as a soil plant filter area or where subsurface injection occurs), and at least one (1) monitoring well shall be installed downgradient from each such area.
  - (3) The upgradient wells shall be used to establish a baseline for the chemical constituents set forth in Subsection (3)(d), below. The downgradient wells shall be used to monitor changes in the contaminant levels of the chemical constituents set forth in Subparagraph (4) below on a quarterly basis. The operator shall submit a report describing any changes in contaminant levels to the Platte County Commission on a quarterly basis. In no event shall the pollutant concentrations in water quality

samples taken from the downgradient wells exceed the baseline established by the upgradient wells or the maximum contaminant levels established by the Missouri Department of Natural Resources, whichever is more restrictive. The "the maximum contaminant levels established by the Missouri Department of Natural Resources" means and refers to the acute toxicity criteria as set forth in 10 CSR 20-7.031 (filed March 1, 1996) which is hereby incorporated by reference as if set forth in its entirety herein, provided however, that the water quality standards shall not be waived as provided in Subsection (2)(B)(3) of 10 CSR 20-7.031.

- (4) The following chemical constituents shall be monitored pursuant to this Subsection (3):

Nitrate nitrogen (NO<sub>3</sub>)  
Nitrite nitrogen (NO<sub>2</sub>)  
Kjeldahl nitrogen  
Ammonia nitrogen  
Total phosphorous  
Dissolved phosphorous  
E. coli (escherichia coli) or fecal coliform bacteria  
pH  
Temperature  
Sulfate  
Total dissolved solids  
Total organic carbon  
Conductivity  
Total alkalinity  
Chloride  
Biochemical oxygen demand  
Sodium

- d. No lagoon shall be located over a shallow aquifer. Animal waste and animal wastewater shall not be applied within one thousand (1,000) feet of any sink hole, well, spring or other water supply or one hundred (100) feet from any stream (including intermittent streams) or strip pits. This rule shall not apply to waste lagoons on the CAFO property but shall apply to all other wells, water supplies, streams, ponds, strip pits, lakes, springs and sink holes on the CAFO property. In Platte County, the larger shallow aquifers include the flood plains of both the Missouri and Platte Rivers. Both of these aquifers have significant interactions with the rivers. Other shallow aquifers in Platte County may exist in the flood plains of smaller rivers and creeks or within the unconsolidated deposits (soils, loess and glacial till) that overlie bedrock.
- e. *Liner systems.* In order to minimize the risk of leakage from a lagoon into ground water systems, and to thereby minimize the risk to public health and safety posed by ground water contamination, no lagoon shall be constructed or operated, and no waste shall be deposited in a lagoon, unless and until a liner is installed on all surfaces on the bottom and side of the lagoon. Provision shall also be made to construct the side walls to prevent the migration of leachate and methane gas. The liner shall consist of two (2) components, as follows:
- (1) An upper component that shall consist of a minimum thirty (30) mil thick geomembrane. Geomembrane components consisting of high density polyethylene (HDPE) shall be at least sixty (60) mil in thickness. The geomembrane component shall be installed in



direct and uniform contact with the compacted soil component so as to minimize the migration of animal waste through the geomembrane should a break occur.

- (2) A lower component that shall consist of at least two (2) foot layer of compacted soil with a hydraulic conductivity of not more than  $1 \times 10^{-7}$  centimeters/second ( $2.82 \times 10^{-4}$  feet/day). The compacted soil liner, at a minimum, shall consist of at least two (2) feet of soil constructed of six (6) to eight (8) inch lifts compacted to ninety-five percent (95%) of standard Proctor density with the moisture content between two percent (2%) and four percent (4%) above the optimum moisture content. The pad shall be protected from the adverse effects of desiccation or freeze/thaw cycles after construction, but prior to the placement of animal waste. The soils used for this purpose shall be classified under the Unified Soil Classification System as CL, CH or SC (ASTM Test D487-85).

- 4. *Adequate water sources.* No health permit shall be issued or renewed for a CAFO unless the applicant demonstrates that an adequate supply of water is available for the proposed operations.
- 5. *Air quality.* All confinement areas and livestock lagoons shall be designed in such a manner as to avoid the unlawful degradation of air quality.
  - a. In no event shall the concentration of gases at the property line resulting from the operation of a livestock lagoon or confinement area exceed the following levels:

Gas	Maximum Allowable Concentration <sup>1</sup>	Exposure Period <sup>2</sup>
Carbon Dioxide (CO <sub>2</sub> )	5000	not applicable
Ammonia (NH <sub>3</sub> )	5	not applicable
Hydrogen Sulfide (H <sub>2</sub> S)	10	2 hours
Methane (CH <sub>4</sub> )	1000	not applicable
Carbon Monoxide (CO)	50	One hour

<sup>1</sup>In parts of pure gas per million parts of atmospheric air.

<sup>2</sup>The time during which the effects of the noxious gas are felt by an adult human or a one hundred fifty (150) pound livestock.

- 6. *Soils.* The applicant shall demonstrate that the soils on the premises, including a plant filter area, are suitable for and compatible with the proposed CAFO operations with respect to the location of confinement areas and livestock lagoons and the application of liquid, slurry or solid animal waste onto or into the soil on the premises.
  - a. No lagoon shall be constructed, operated or established unless it is designed and inspected by a registered engineer retained by the applicant.
  - b. Waste loads shall not exceed the agronomic rates of the plant filter areas. In order to ensure protection of ground water from nutrient contamination, the land application rates of both process wastewater and manure shall not be applied at a rate exceeding the recommended agronomic rates for the crop(s) grown on the land application site(s).
  - c. No animal waste from a livestock lagoon shall be applied when soils are water saturated, frozen, or covered with snow, or when other soil conditions would result in waste runoff.

7. *Compliance with applicable regulations.*

- a. The applicant shall demonstrate that the confinement areas and livestock lagoons shall at all times be operated in compliance with any required local, State or Federal permits, licenses or other approvals and in compliance with all applicable State and local laws and regulations.
- b. No Class IA, Class IB or Class IC CAFO shall be erected, constructed, developed, used, operated, expanded, occupied or otherwise established unless the owners and any other persons responsible for operation of the waste management systems have been certified in accordance with the requirements of 10 CSR 20-14 (November 30, 1996), which provision is incorporated by reference as if set forth in its entirety herein.
- c. The design and operation of the waste management system shall comply in all respects with the provisions of Manual 121, Manual 115 and the AWMFH; provided however, that if any requirement of any said document therein conflicts with any requirement of this Chapter, the provisions of this Chapter shall apply. If any requirement of any said document therein conflicts with any requirement of the other documents or the requirements of the Missouri Department of Natural Resources (10 CSR 20-6.300, 20-8, 20-7.031 and 2-14), the more restrictive requirement shall govern. The applicant shall provide, as part of the application for a County health permit, all of the information required by said documents.

8. *Minimum land area.* The CAFO shall own, acquire or execute a lease of not less than one (1) acre of land for each four (4) AU of capacity for wet handling systems or shall own or lease not less than one (1) acre for each eight (8) AU of capacity for a dry litter system. The nutrients generated by livestock within the CAFO shall not exceed the nutrient removal capabilities of the plant filter areas. Nutrient application levels for the CAFO shall comply with Appendix A hereto, which Appendix A is hereby incorporated by reference as if set forth in its entirety herein.

9. *Waste application.*

- a. Land application of animal wastewater shall not occur within seven hundred fifty (750) feet of an occupied dwelling or within one thousand (1,000) feet of a public use area which existed prior to the date the CAFO is constructed. This rule shall not apply to occupied dwellings owned by the CAFO. The owner of an occupied dwelling may apply for a variance from this rule as part of the application for a County health permit.
- b. Animal waste and animal wastewater cannot be applied to land with a slope exceeding ten percent (10%) except land with a permanent vegetative cover or an approved soil conservation plan approved by the Natural Resources Conservation Service.
- c. Land application shall comply with the provisions of the Missouri Department of Natural Resources "Guide to Animal Feeding Operations" (January 1997), "Land Application Areas", which document is hereby incorporated by reference as if set forth in its entirety herein.

10. *Setbacks.*

- a. *CAFOs.* No Class IA CAFO shall be located within one and one-half (1½) miles of another Class IA CAFO or within one (1) mile of any other CAFO. No Class IB CAFO

shall be located within one (1) mile of any other CAFO. No Class IC CAFO shall be located within one (1) mile of a Class IA CAFO or Class IB CAFO or within three-fourths ( $\frac{3}{4}$ ) of a mile of any Class IC CAFO or Class II CAFO. No Class II CAFO shall be located within one-fourth ( $\frac{1}{4}$ ) of a mile of any Class IA CAFO, Class IB CAFO, Class IC CAFO or Class II CAFO. This distance shall be measured from the nearest point of one (1) CAFO's confinement area and waste management system to the nearest point of another CAFO's confinement area and waste management system. This distance shall apply only to the application for a County health permit, and shall be measured only from a CAFO in existence at the time of an application for a County health permit (see Table 4.10-1).

**Table 4.10-1**

	<b>CAFOs existing at the time of an application for a County health permit</b>				
	<b>(A) Setback Distances</b>	<b>(B) Class IA</b>	<b>(C) Class IB</b>	<b>(E) Class IC</b>	<b>(E) Class II</b>
CAFO proposed in application for county health permit	(1) Class IA	1.5 miles	1 mile	1 mile	1 mile
	(2) Class IB	1 mile	1 mile	1 mile	1 mile
	(3) Class IC	1 mile	1 mile	$\frac{3}{4}$ mile	$\frac{3}{4}$ mile
	(4) Class II	$\frac{1}{4}$ mile	$\frac{1}{4}$ mile	$\frac{1}{4}$ mile	$\frac{1}{4}$ mile

- b. *Occupied dwellings.* No Class II CAFO shall be located within one thousand (1,000) feet of an occupied dwelling. No Class IC CAFO shall be located within one-fourth ( $\frac{1}{4}$ ) mile of an occupied dwelling. No Class IB or Class IA CAFO shall be located within three-fourths ( $\frac{3}{4}$ ) of a mile of an occupied dwelling, which setback requirement shall increase by one-fourth ( $\frac{1}{4}$ ) of a mile for each five hundred (500) AU (or fractional portion thereof) of capacity in excess of seven thousand (7,000) AU. This rule shall not apply to occupied dwellings owned by the CAFO or to dwellings not in existence at the time of issuance of the County health permit.
- c. *Populated areas.* No Class II CAFO shall be located within one-half ( $\frac{1}{2}$ ) of a mile of a populated area. No Class IC CAFO shall be located within one (1) mile of a populated area. No Class IA or Class IB CAFO shall be located within two (2) miles of a populated area. This setback shall increase one-fourth ( $\frac{1}{4}$ ) mile for each five hundred (500) AU (or fractional portion thereof) of authorized capacity in excess of seven thousand (7,000) AU. (County Order No. 58-00, 10-26-00)

**SECTION 210.050: WASTE DISPOSAL SYSTEMS CLEANUP AND FINANCIAL SECURITY**

- A. Lagoons or other waste storage structures which are no longer in use shall be closed in accordance with the requirements of 10 CSR 20-6.300(4)(B). The owner shall also be responsible for the cost of cleaning or remediating any contamination or pollution, including any water resources (as defined in Sections 210.040(3)(a) and 210.040(3)(d) hereto), wells, or soils which become contaminated, polluted, defiled or soiled from leaks or spills from any lagoon or other waste storage facility on the premises. The mechanisms used to demonstrate financial assurance shall ensure that the funds necessary to meet the costs of cleanup and remediation, as established herein, will be available when

they are needed. In establishing financial assurance, owners and operators shall choose from the following options set forth in Subsections (B), (C) or (D) of this Section. The amount of the surety bond, insurance coverage or self-insurance deposit shall be computed based on the following schedule for closure and remediation, which amount shall be:

1. Not less than eight thousand dollars (\$8,000.00) per acre-foot of lagoon storage capacity for closure of a Class IA; seven thousand dollars (\$7,000.00) per acre-foot of lagoon storage capacity for closure of a Class IB; one thousand dollars (\$1,000.00) per acre-foot of lagoon storage capacity for closure of a Class IC or a Class II.
2. Not less than the following for remediation activities:
  - a. Class II CAFO: thirty thousand dollars (\$30,000.00).
  - b. Class IC CAFO: fifty thousand dollars (\$50,000.00).
  - c. Class IB CAFO: one hundred thousand dollars (\$100,000.00).
  - d. Class IA CAFO: one hundred fifty thousand dollars (\$150,000.00) and twenty thousand dollars (\$20,000.00) for each additional five hundred (500) AU over the initial seven thousand (7,000) AU.

B. *Surety Bond.* An applicant for a County health permit may demonstrate financial assurance by obtaining a payment or performance surety bond which conforms to the requirements of the Section. The bond shall be effective before the initial receipt of livestock into the facility, and a copy of the bond shall be filed with the County Treasurer and the County Commission. The surety company issuing the bond shall, at a minimum, be among those listed as acceptable sureties on Federal Bonds and Circular 570 of the U.S. Department of the Treasury. In addition, the bond shall:

1. Be in an amount at least equal to the financial assurance schedule established under Subsection (A) above.
2. Provide that the surety will become liable under the bond obligations when the facility fails to perform as guaranteed by the bond.
3. Provide that the surety may cancel the bond by sending notice of cancellation by certified mail to the owner and to the County Commission one hundred twenty (120) days in advance of the cancellation. If the surety cancels the bond, the facility shall obtain alternate financial assurance or cease operations.

C. *Insurance.* An applicant for a County health permit may demonstrate financial assurance by obtaining insurance which conforms to the requirements of this Section. Insurance shall be effective before the initial receipt of livestock at the operation. At a minimum, the insurer shall be authorized to transact the business of insurance in Missouri. A copy of the policy shall be filed with the County Treasurer and the County Commission and shall provide

1. All funds will be available for any on-site or off-site cleanup resulting from the operation. The policy shall also guarantee that once environmental cleanup has begun, the insurer will be responsible for the paying out of funds to the facility or other persons authorized to conduct the cleanup an amount equal to the face amount of the policy.
2. The policy shall be issued for a face amount at least equal to the cost estimate for financial assurance established pursuant to Subsection (A) above. The term "*face amount*" means the

total amount the insurer is obligated to pay under the policy. Actual payment by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of payments.

3. The policy shall contain a provision allowing assignment of the policy to a successor facility. Said assignment may be conditional upon consent of the insurer, provided that such consignment is not unreasonably refused.
4. The policy shall provide that the insurer may not cancel, terminate or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy shall, at a minimum, provide the insurer with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may cancel the policy by sending notice of cancellation by certified mail to the facility and to the County Auditor one hundred twenty (120) days in advance of the cancellation. If the insurer cancels the policy, the facility shall obtain alternate financial assurance or cease operations.

- D. *Self Insurance.* An applicant for a County health permit may demonstrate financial assurance by depositing with the County Treasurer unsecured debentures, U.S. Government bonds or notes, or Certificates of Deposit issued by Federal or State chartered banks with a market value equal to or exceeding the sum of the financial assurance requirement established pursuant to the provisions of Subsection (A) above. Said financial instruments shall be held by the County Treasurer for so long as the provisions of this Chapter apply and may not be otherwise pledged by the facility. Interest payments, if any, from the financial instruments pledged as security shall be paid to the owner. (County Order No. 58-00, 10-26-00)

#### **SECTION 210.060: VARIANCE**

Where, due to an extraordinary or exceptional situation or condition of a specific piece of property, the strict application of this Chapter would result in peculiar and exceptional difficulties to, or an exceptional and demonstrable undue hardship upon the owner of the property as an unreasonable deprivation of use as distinguished from the mere grant of a privilege, the County Commission may authorize, as part of the application for a County health permit, a variance from the strict application so as to relieve said demonstrable difficulties or hardships, provided the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the regulations, standards and criteria established in this Chapter. (County Order No. 58-00, 10-26-00)

#### **SECTION 210.070: APPLICATION OF CHAPTER**

A CAFO lawfully in existence at the time of the enactment of this Chapter is exempt from its terms and conditions; provided however, that before a CAFO in existence at the time of the enactment of this Chapter may expand or change its operation in terms of a change of classification, the CAFO shall be in compliance with this Chapter in every respect and shall obtain a new County health permit. (County Order No. 58-00, 10-26-00)

#### **SECTION 210.080: DISPOSAL OF DEAD ANIMALS AND AFTER BIRTHING MATERIAL**

The proper disposal of dead animals and after birthing material shall be completed by the end of the next working day (excluding Sundays and holidays recognized in Chapter 9, RSMo.) from the time of occurrence. (County Order No. 58-00, 10-26-00)

**SECTION 210.090: ADMINISTRATIVE FEES**

- A. No application for approval of a County health permit shall be accepted until the applicant has paid all processing fees as set forth below. Fees paid shall be non-refundable except as provided in Subsection (D) below.
- B. The fee amount shall not exceed the amount needed to recover the cost of inspection, investigation and review of the proposed application, which fee amounts are based upon the anticipated costs of review, inspection and investigation, and which fee amounts have taken into consideration the need for special investigative services including geologic inspections, hydrologic inspections, ground water monitoring, soils evaluation and other unique costs of a scientific or technical nature associated with the processing of the application. For purposes of this Chapter, the administrative fee amounts shall be as follows:

Classification of CAFO	Application Fee	Fee for Renewal of County Health Permit
Class IA	\$10,000.00 plus \$1.00 per animal unit exceeding 10,000 animal units	\$500.00
Class IB	\$7,000.00	\$300.00
Class IC	\$3,000.00	\$200.00
Class II	\$1,000.00	\$100.00

- C. There shall be established with the County Treasurer an escrow fund, for each application for a County health permit, for the purposes of reimbursing the County Commission for services rendered in connection with administration of this Chapter. Said escrow account shall include the proceeds of project review fees established pursuant to this Section. The funds contained in said escrow account shall be used solely to reimburse the County Commission for actual costs associated with administration of this Chapter, for actual services rendered for investigation, administration and processing of a County health permit including costs associated with the retaining and compensation of experts on scientific and technical issues associated with the application, and costs associated with public hearings. The County Treasurer shall disburse payments based upon billings supplied by the County Commission and approved by the County Commission.
- D. The applicant for a County health permit may apply to the County Commission for a credit against the fee previously paid in the event that a portion of the costs of review and processing is duplicated, pursuant to the standards of applicable case law or Statutes then in effect. After the approval, conditional approval or denial of a County health permit, the County Treasurer shall refund to the applicant any unexpended or unencumbered balance of the escrow account established pursuant to this Section for said application. (County Order No. 58-00, 10-26-00)

**SECTION 210.100: VIOLATION OF CHAPTER**

The County Commission may designate a qualified individual to inspect any lagoon used by a CAFO which has been issued a County health permit and may initiate an enforcement action as provided by Section 192.300, RSMo. Any person violating this Chapter shall be subject to punishment by imprisonment or fine as provided by law. Each day a person operates a CAFO in violation of this Chapter, and each time a person applies animal waste or animal waste water in a

manner inconsistent with the requirements of this Chapter, shall be considered a separate offense. (County Order No. 58-00, 10-26-00)

## **CHAPTER 215: OFFENSES**

### **ARTICLE I. OFFENSES AGAINST PUBLIC PEACE**

#### **SECTION 215.010: UNLAWFUL DISCHARGE OF A FIREARM/FIREARMS NEAR RESIDENCES IN SUBDIVISIONS**

A. *Definitions.* For the purposes of this Section, the following terms shall be deemed to have the meanings indicated below:

*FIREARM:* Any weapon that is designed or adapted to expel a projectile by the action of an explosive.

*SUBDIVISION:* A platted residential subdivision in which at least ten (10) dwellings or other residential buildings have been constructed.

- B. No person shall, without consent of the owner or lawful occupier, discharge a firearm within one hundred fifty (150) yards of a dwelling or other building or structure which is designed to be occupied by human beings if the dwelling, building or structure is located within a subdivision.
- C. No person shall discharge a firearm within one hundred (100) feet of the centerline of a public street if the street is located within a subdivision.
- D. This Section shall not be construed as prohibiting the discharge of a firearm:
1. In defense of life or property;
  2. By Law Enforcement Officers in performance of their duty; or
  3. On present or future public, private or commercial shooting ranges.
- E. Any person who shall violate the provisions of this Section shall be punished by fine not exceeding five hundred dollars (\$500.00) or by imprisonment for a period not exceeding ninety (90) days, or by both such fine and imprisonment. (County Order No. 8-93, 2-18-93)

#### **SECTION 215.020: FIREARMS IN COUNTY BUILDINGS**

- A. No person who has been issued a concealed carry endorsement by the Missouri Director of Revenue under Sections 571.101 to 571.121, RSMo., or who has been issued a valid permit or endorsement to carry concealed firearms issued by another State or political subdivision of another State, shall, by authority of that endorsement or permit, be allowed to carry a concealed firearm or to openly carry a firearm in any building or portion of a building owned, leased or controlled by the County.