

# **VOTER INFORMATION PAMPHLET**

## **PROPOSITION 6**

LAND USE AMENDMENTS 2020

Included in this Pamphlet:

- Ballot Title
- Summary of Initiative
- Fiscal Impact Statement
- Legal Impact Statement

Proposition 6  
Land Use Amendments 2020  
(Swine CAFO/CCAFO Prohibition)

Concentrated Animal Feeding Operations (CAFO) and Confined Concentrated Animal Feeding Operations (CCAFO) involved in swine production shall be prohibited in all zones in Millard County. The Millard County General Plan shall be amended consistent with this prohibition. Any proposed amendments to this prohibition or any proposed resolution or ordinance that is inconsistent with this prohibition shall be referred to the voters of Millard County and shall not take effect unless approved by a majority of votes cast. Failure by Millard County to enforce this prohibition shall be actionable in District Court.

## LAND USE AMENDMENTS 2020

*This is a summary of the legislation proposed by Proposition 6. A copy of the proposition in its entirety may be viewed at <https://www.millardcounty.org/your-government/elected-officials/clerk/elections/2020-elections/> or by contacting the Millard County Clerk's Office at 435-743-6223 or 453-864-2440.*

Local legislative power in Utah is vested in the representative legislative body and in the people of the State. Article VI, Section 1 of the Utah Constitution recognizes that the people exercise their direct legislative power through referenda and initiatives, collectively referred to as ballot propositions. The power of the people to legislate directly through the ballot proposition process is coequal to the legislative power of the representative legislative bodies.

Local land use regulations establish uniform standards intended to protect the health, safety and welfare of the residents of the local jurisdiction. Local land use regulations must be consistent with the General Plan of the local jurisdiction. Concentrated Animal Feeding Operations and Confined Concentrated Animal Feeding Operations are not consistent with the General Plan of Millard County and threaten the health, safety, and welfare of the residents of Millard County.

Based on the foregoing, the Millard County Code shall be amended as follows:

1. Swine Concentrated Animal Feeding Operations (CAFO) are prohibited in Millard County.
2. CAFO has the same definition as in Federal or State law or Millard County ordinance, whichever is most restrictive.
3. Swine Confined Concentrated Animal Feeding Operations (CCAFO) are prohibited in Millard County.
4. The Millard County General Plan shall be amended to prohibit Swine CAFOs and CCAFOs.
5. The Millard County Commission may not repeal or make moot a successful citizen initiative.
6. The Millard County Commission or other legislative or administrative body may not substantially amend a citizen's initiative to make the legislative intent moot, void, and/or conflict with any other part of the land use ordinance.
7. Any resolution, ordinance, or administrative rule that is adopted by the local legislative or administrative body in violation of this Chapter must be put to a vote of the people and approved by a simple majority vote to take effect.
8. The County Attorney shall review all resolutions, ordinances, administrative rules to determine if they conflict with this chapter, and if the County Attorney determines that they are he/she shall direct the County Clerk to prepare a ballot question.
9. If directed by the County Attorney the County Clerk shall prepare the ballot measure.
10. Any person may challenge a failure to enforce these provisions in District Court.

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**Bonnie Gehre**  
Millard County Auditor  
bonnieg@co.millard.ut.us

December 23, 20199

Marki Rowley  
Millard County Clerk  
765 S Hwy 99 Suite 6  
Fillmore UT 84631

Re: Fiscal Impact of Proposed Land Use Initiative

As Millard County Auditor I serve as the budget officer for Millard County. I estimate that the law proposed by this initiative would have no significant fiscal impact and would not result in either an increase or decrease in taxes or debt. The cost of printing and distributing information related to the initiative petition and the voter information pamphlet required by Section 20A-7-402 of Utah Code Annotated is estimated to be \$15,000.00.

Best Regards,

Bonnie Gehre  
Millard County Auditor





OFFICE OF

**MILLARD COUNTY ATTORNEY**

**Patrick S. Finlinson**  
County Attorney

CRIMINAL DIVISION:

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December 20, 2019

Marki Rowley  
Millard County Clerk  
765 South Highway 99, Suite 6  
Fillmore, UT 84631

RE: Legal Impact of Proposed Land Use Initiative

Dear Marki:

Pursuant to Section 20A-7-502.5 of Utah Code Annotated I am providing this legal analysis of the local initiative filed with your office on December 2, 2019 seeking to amend Millard County's land use ordinances. The proposed law lacks a title that clearly expresses its subject matter. I have communicated that concern to the sponsors and expect them to submit a corrected application before the end of the year. It is my opinion that the initiative is otherwise referable to the voters.

Section 20A-7-502.5 requires that I address 1) potential impacts on vested property rights, 2) significant effects on other laws and ordinances, 3) potential liability exposures, and 4) other legal impacts resulting from the proposed law. I will address each in turn.

Vested Property Rights

The proposed law will prohibit certain uses of real property and will impose a different structure for consideration of certain zone change applications. To this extent the proposed law will impact private property rights in Millard County. However, the law will not be applied retroactively and any vested rights to use real property contrary to the proposed law will be protected as prior nonconforming uses.

Effects on Other Ordinances

The proposed law will significantly change Millard County's land use ordinance by prohibiting CAFOs and CCAFOs involving swine and by requiring electoral approval of any requested change to an Agricultural Industrial zone. Several amendments to Millard County's land use ordinance will be necessary to bring it into conformity with the proposed law.

Liability Exposures


Millard County may have to defend against constitutional takings claims related to the proposed law. Under current jurisprudence, however, I do not foresee any such claims being successful. It is my opinion that the proposed law will not expose Millard County to significant legal liability.

Other Legal Impacts

I am unaware of any other significant legal impacts arising from or related to the proposed law.

Please let me know if you have questions or concerns or if I can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick S. Finlinson", written over a horizontal line.

Patrick S. Finlinson  
Millard County Attorney