

CHAPTER 1 INTRODUCTION

SECTION 1.10 TITLE

This document shall be known and may be cited as the “Gaines Charter Township Zoning Ordinance” and may also be referred to as the “Zoning Ordinance” or “Ordinance.”

SECTION 1.20 INTENT

A. INTENT

The provisions of this Zoning Ordinance are intended and determined to be the minimum requirements adopted to promote public health, safety, welfare, and orderly growth within Gaines Charter Township.

B. PURPOSE STATEMENTS

The purpose of this Ordinance is to:

1. promote public health, safety, and general welfare;
2. ensure that uses of land are situated in appropriate locations;
3. limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities;
4. facilitate the adequate and efficient provision of transportation systems, sewage disposal, water, energy, recreation, and other public service and facility needs; and
5. preserve and protect environmental resources and the natural services they provide.

SECTION 1.30 APPLICABILITY

A. BUILDINGS AND STRUCTURES

No building or structure may be developed, constructed, expanded, used, installed, or altered except in full compliance with all of the requirements of this Ordinance.

B. SITES

No site or property shall be developed or used unless it complies with all of the requirements of this Ordinance.

C. LAND USE

No use of land, buildings, or structures shall occur unless in full compliance with all of the requirements of this Ordinance. Any use, activity, structure, or building not expressly authorized by this Ordinance is prohibited. In addition, if a specific structure, building, use, or activity is not expressly authorized in the particular zoning district involved (whether listed as a permitted use or with approval as a special land use), then it is not permitted or allowed within that zoning district except if determined to be allowable in accordance with Section 15.30.

D. PENDING APPLICATIONS

In cases where this Ordinance is amended between the time a development permit application is submitted and a decision on the application is made, the applicant may choose whether the review of and decision on the application will proceed under the requirements of this Ordinance as it was in effect at the time the application was submitted, or under the requirements of the new Ordinance provisions.

E. APPROVED APPLICATIONS

1. Any zoning approvals granted prior to the adoption of this Ordinance shall remain valid until their expiration date or one (1) year from the effective date of this Ordinance, whichever is sooner. Projects with valid approvals or permits may be carried out in accordance with the zoning requirements in effect at the time of approval, provided the permit or approval is valid and has not lapsed. Any re-application for an expired approval shall comply with this Ordinance.
2. Lands subject to site plan, special land use, Planned Unit Development, and conditional rezoning approvals that took place prior to the effective date of this Ordinance shall continue to be subject to the previous approvals and conditions unless amended through the applicable processes in this Ordinance.

SECTION 1.40 ORGANIZATION

A. INTRODUCTION AND GENERAL PROVISIONS

Chapter 1 includes an introduction to set the purpose, applicability, organization, and legal basis for zoning regulation, and Chapter 2 introduces the zoning districts. Chapter 3 includes information concerning measurements and designations, such as height, lots, setbacks, and yards.

B. ZONING DISTRICT REGULATIONS

Chapters 4 to 14 include dimensional and spatial requirements specific to zoning districts, lots, and building types, and Chapter 15 includes land use regulation tables for principal, accessory, and temporary uses.

C. BUILDING AND DEVELOPMENT REQUIREMENTS

Chapters 16 to 24 include regulations related to building design, general activities in all zoning districts, specific use requirements, signs, and the development of land, including lighting, parking, access, streets, and landscaping.

TABLE 1.40 C: DEVELOPMENT REQUIREMENTS AND APPLICABILITY

Requirement	Chapter	Included	General Applicability
Building Requirements	Chapter 16	Building materials, development design, and form requirements	All principal buildings, and in some cases, accessory buildings
General Requirements	Chapter 17	Requirements for general structures and activities that are not necessarily regulated distinctly by zoning districts	Varies
Uses with Specific Requirements	Chapter 18	Requirements that are unique and specific to land uses are identified in this chapter	See far right column of Tables 15.40, 15.50, and 15.60
Lighting	Chapter 19	Lighting and light fixture requirements, minimum and maximum levels, and lighting plan requirements	Primarily non-residential and multi-family development, residential lots (to a lesser

TABLE 1.40 C: DEVELOPMENT REQUIREMENTS AND APPLICABILITY

			degree), parking lots, and storage areas
Parking and Loading	Chapter 20	Minimum number of parking spaces and loading areas, design of parking and loading areas, electric vehicle charging stations, and other general requirements	All projects that require off-street parking or loading spaces
Mobility, Traffic, and Access	Chapter 21	Requirements concerning bicycle and pedestrian accommodations, traffic impact, and access management (number, location, and separation of driveways)	Non-residential and multi-family site development
Private Streets & Driveways	Chapter 22	Requirements for privately maintained streets and driveways for primary access to property	All properties
Landscaping	Chapter 23	General landscaping requirements, prohibited species, landscape plan requirements, front yard landscaping, buffering, parking lot trees, and screening	Primarily non-residential and multi-family development, residential lots to a lesser degree
Signs	Chapter 24	General sign requirements and requirements for various sign types	All properties

D. REVIEW PROCESSES AND STANDARDS

Chapters 25 to 31 provide direction for the review of all zoning and land development applications.

TABLE 1.40 D: REVIEW PROCESSES AND PROCEDURES	
Requirement	Chapter
General and Administrative Processes	Chapter 25
Site Plan Review	Chapter 26
Special Land Use Review	Chapter 27
Condominium Review	Chapter 28
Planned Unit Development Review	Chapter 29
Variance Review	Chapter 30
Zoning Amendment Review	Chapter 31

E. ADMINISTRATION

Chapters 32 to 36 include an overview of administrative and review authorities, restrictions on lawful nonconformities, enforcement of the Ordinance, definitions of terms used in this Ordinance, and development application checklists.

SECTION 1.50 FIGURES AND TABLES

Graphics are provided as “figures” throughout this Ordinance to illustrate the intent of the regulatory language. The Ordinance text shall supersede when there is an apparent discrepancy or conflict between the Ordinance text and text within a figure or pictorial. Any text within a table is a requirement.

SECTION 1.60 TERMINOLOGY

A. APPLICABILITY

The following rules govern the terminology of this Ordinance.

1. The word "lot" includes all lots, parcels, and site condominium units (see Section 3.30 B.1).
2. The particular shall control the general.
3. The headings that title a chapter, section, or subsection are for convenience only and are not to be considered in any construction or interpretation of this Ordinance or as enlarging or restricting the terms and provisions of this Ordinance in any respect.
4. The words "shall" and "must" are always mandatory and non-discretionary, while the word "may" is permissive and discretionary.
5. Unless the context clearly indicates to the contrary, words used:
 - a. A present tense shall include the future tense;
 - b. A singular number or term shall include the plural number or term; and
 - c. A plural number or term shall include the singular number or term.
6. The word "person" includes a human being, firm, association, partnership, joint venture, corporation, limited liability company, trust, municipal or public entity, or equivalent entity, or a combination of any of them, as well as a natural person.
7. The word "used" or "occupied," as applied to any land, building, or structure, shall also be construed to include the words "intended," "arranged," and "designed to be used."

B. DEFINITIONS AND COMMON UNDERSTANDING

General terms and land uses are defined in Chapter 35 for the purpose of their use and interpretation in this Ordinance. Any word or term not defined in this chapter shall be considered to be defined in accordance with its common or standard definition.

SECTION 1.70 CONFLICT, PRIVATE AGREEMENTS, AND OTHER LAW

A. CONFLICT

This Ordinance shall not repeal, annul in any way, impair, or interfere with any of the following.

1. Existing provisions of other laws, ordinances, or regulations, except those repealed within this Ordinance by specific reference.
2. Private restrictions placed upon property by covenant, deed, or other private agreement.
3. Restrictive covenants running with the land to which the Township is a party.

B. ENFORCEMENT OF PRIVATE AGREEMENTS

1. All applicants and landowners shall be responsible for obligations and restrictions applicable to subject properties by private agreements.
2. In no case shall the Township be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

3. Where this Ordinance imposes greater restrictions, limitations, or requirements upon the use or development of land than private regulations, then the provisions of this Ordinance shall supersede.

C. COUNTY, STATE, AND FEDERAL LAWS

1. Where this Ordinance imposes greater restrictions, limitations, or requirements upon the use or development of land than federal, state, or local regulations, then the provisions of this Ordinance shall supersede unless the zoning regulation involved is specifically preempted or precluded by federal or state laws or case law.
2. The Township generally shall not enforce county, state, or federal laws through its zoning penalties and enforcement. However, Township land use and site development approvals may be conditioned upon securing all applicable outside governmental agency or similar approvals. When federal or state laws preempt the Township's zoning authority, the Township recognizes that those regulations supersede the zoning regulations involved to the extent of the preemption.

SECTION 1.80 LEGAL BASIS

This Ordinance is enacted pursuant to P.A. 110 of 2006, the Michigan Zoning Enabling Act, Act 110 of 2006, as amended, which may be referred to in this Ordinance as the "Michigan Zoning Enabling Act."

SECTION 1.90 VALIDITY AND SEVERABILITY

If any court of competent jurisdiction shall declare any part of this Ordinance to be invalid, the ruling shall not affect any other provisions of this Ordinance not specifically included in the ruling, and all other provisions of this Ordinance shall remain valid and enforceable. If any court of competent jurisdiction shall declare invalid the application of any provision of this Ordinance to a particular property, zoning district, use, activity, building, or structure, such ruling shall not affect the application of the provision to any other property, zoning district, use, activity, building, or structure not specifically included in the ruling.

SECTION 1.100 NONWAIVER AND RULE OF NONESTOPPEL

If any provision of this Ordinance is not enforced against a particular lot or property or throughout the Township in general, that shall not be deemed to be a waiver (or constitute laches) regarding the ability of the Township to enforce that provision (or any other provision) of this Ordinance against a particular lot or property involved or throughout the Township in general. Furthermore, should any Township official, body, board, or commission render any zoning approval or opinion, or undertake (or not undertake) any other action pursuant to this Ordinance, and it is determined that any such opinion, interpretation, approval, action, or inaction was done in error or in an ultra vires or other mistaken fashion, that shall not preclude the Township from reversing, revoking, or revising any such zoning approval, interpretation, opinion, action, or inaction which was done in error and to thereafter enforce the provision or provisions of this Ordinance involved. The Michigan common law "rule of municipal nonestoppel" shall benefit the Township, as well as its officials, officers, bodies, and commissions.

SECTION 1.110 NO ZONING APPLICATIONS, APPROVALS, OR PERMITS FOR A PROPERTY THAT IS IN VIOLATION OF THIS ORDINANCE OR A COURT ORDER OR JUDGMENT

Should a lot be in material or substantial violation of any provision of this Ordinance (or a court order or judgment regarding this Ordinance or the use of the land), then the Township shall not accept, process, or approve any request or application by the landowner(s) of the lot in violation (or anyone else with an interest in the property in violation) unless and until the existing violation or violations of this Ordinance (or the violation or violations of a court order or judgment regarding this Ordinance or the use of the land) have been fully corrected and the lot complies fully with this Ordinance (and any applicable court order or judgment). The prohibition contained in this Section shall also apply to any zoning request, application, or petition, including requests for a zoning approval, rezoning, variance, special land use, temporary use, site plan, permit, or other approval that is unrelated to the violation or violations of this Ordinance (or of any applicable court order or judgment) on the lot involved. The prohibition contained in this Section shall be in addition to (and not exclusive of) any other remedies available to the Township for the enforcement or administration of this Ordinance (or any court order or judgment) and shall be in addition to any other penalties, sanctions or proceedings available at law or equity against the landowner(s) or any other person, firm or entity in violation of this Ordinance (or any court order or judgment).

SECTION 1.120 MORATORIA

A. PURPOSE

From time to time, the Township undertakes extensive study in order to develop regulations for new types of uses or to address other complex issues. During these periods, there is a risk that some may seek to establish “vested rights” in an unregulated or under-regulated use before the Township completes its study and adopts a regulatory scheme. The ability to impose temporary moratoria is helpful to protect the interests of the Township in these situations.

B. PROCEDURE

The Township Board may, by resolution or Ordinance, impose temporary moratoria directing Township staff not to accept or process certain applications for zoning-related approvals and to halt certain uses while the Township undertakes the study of possible regulations. Such moratoria shall be for an initial term of no more than six (6) months, which may be extended by the Township Board only for good cause.

SECTION 1.130 NO ADMINISTRATIVE LIABILITY

No officer, agent, employee, Building Official, Zoning Administrator, or member of the Planning Commission, Township Board, or Zoning Board of Appeals shall be personally liable for any damage that may accrue to any Person as the result of any act, decision, or other consequence or occurrence arising out of the discharge of duties and responsibilities pursuant to this Ordinance.

SECTION 1.140 REPEAL AND SAVINGS CLAUSE

The Gaines Charter Township Zoning Ordinance, which was adopted on December 10, 2007, and effective on December 21, 2007, and its subsequent amendments, are repealed as of the effective date of this Ordinance. The repeal of said earlier Ordinance shall not have the effect of releasing or relinquishing any penalty, requirement, forfeiture, or liability incurred under said earlier Ordinance, or any part thereof, and such earlier Ordinance shall be treated as still remaining in force for the purpose of instituting or sustaining any proper action for the enforcement of such penalty, forfeiture, or liability.

SECTION 1.150 EFFECTIVE DATE

This new Gaines Charter Township Zoning Ordinance was adopted by the Gaines Charter Township Board, Kent County, Michigan, at a meeting held on April 14, 2025, and a notice of publication ordered published on April 17, 2025, in the Grand Rapids Press, a newspaper having general circulation in the Township, and has an effective date of April 24, 2025.

CHAPTER 1 INTRODUCTION

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