

CHARTER TOWNSHIP OF GAINES
COUNTY OF KENT, STATE OF MICHIGAN

Proposed

ORDINANCE NO. _____

**PROHIBITION OF RECREATIONAL MARIHUANA ESTABLISHMENTS AND
FACILITIES ORDINANCE.**

ADOPTED: _____, 2019

**AN ORDINANCE TO ADD A CHAPTER 43, "PROHIBITION OF RECREATIONAL
MARIHUANA ESTABLISHMENTS AND FACILITIES", SECTION 43-1 THROUGH
SECTION 43-8, INCLUSIVE, TO THE GAINES CHARTER TOWNSHIP CODE OF
ORDINANCES TO PROHIBIT MARIHUANA ESTABLISHMENTS AND FACILITIES IN
GAINES CHARTER TOWNSHIP, KENT COUNTY MICHIGAN.**

**THE CHARTER TOWNSHIP OF GAINES
KENT COUNTY, MICHIGAN ORDAINS:**

Section I

Addition of Chapter 43, Chapter I Section 43- 1 through Section 43- 8 inclusive.

***That the Code of Ordinances is hereby amended by adding a new "Chapter
43-Prohibition of Marihuana Establishments and Facilities", Section 43-1
through Section 43-8 inclusive, such chapter to read as follows:***

Chapter 43

**PROHIBITION OF RECREATIONAL
MARIHUANA ESTABLISHMENTS AND FACILITIES**

Section 43-1 Findings, Purpose and Intent.

The township board finds that there are many negative impacts associated with the cultivation, processing, sale and dispensing of recreational marihuana which can include burglaries, robberies, violence, increased vandalism, illegal sales of marihuana, and use of marihuana by minors. Furthermore, the sale and distribution of recreational marihuana can create problems in the areas adjacent to marihuana sales, cultivation or processing, including threats to the public peace and undermining of township efforts to safeguard the health, safety and welfare of the residents and property owners of the township and the public at large.

The purpose and intent of this ordinance is to define words; to prohibit

marihuana establishments within the boundaries of Gaines Charter Township to define words; to prohibit marihuana establishments within the boundaries of Charter Township of Gaines pursuant to the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, as amended; to provide penalties for violation of this ordinance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith; and to provide an effective date.

Section 43-2.-Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. *IHRA* means the Industrial Hemp Research Act, 2014 PA 547, MCL 286.841 *et seq.*
2. *Marihuana establishment* means that term as defined in the MRTMA.
3. *Marihuana facility* means that term as defined in the MMFLA.
4. *MMFLA* means the Medical Marihuana Facilities Licensing Act, 2016 PA 281, as amended.
5. *MMMA* means the Michigan Medical Marihuana Act, 2008 IL 1, as amended.
6. *MRTMA* means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, as amended.

Section 43-3. - No Marihuana Establishments

The Charter Township of Gaines hereby prohibits all marihuana establishments within the boundaries of the Township pursuant to Section 6 the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, as amended.

Section 43-4. - Rights Unaffected By Chapter

1. This chapter does not affect the rights or privileges of a marihuana facility outside of the Charter Township of Gaines to engage in activities within the Charter Township of Gaines that it is permitted to engage in under the MMFLA within a municipality that has not authorized marihuana facilities to operate within its boundaries.
2. This chapter does not affect the rights or privileges of registered qualifying patients or registered primary caregivers under the MMMA or the MMFLA.
4. This chapter does not affect the rights or privileges of any individual or other person under the IHRA.
5. This chapter does not affect the rights or privileges of any individual or other person under any other federal or state law, rule or regulation related to the medical use of marihuana.

Section 43-5. - Violations and Penalties

1. Any person who disobeys neglects or refuses to comply with any provision of this ordinance or who causes allows or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.

2. A violation of this ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500, in the discretion of the Court. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the municipal civil infraction.

3. Each day during which any violation continues shall be deemed a separate offense.

4. In addition, the Township may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.

5. This ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the Township or by such other person (s) as designated by the Township Board from time to time.

SECTION 43-6. - Severability

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect.

SECTION 43-7 - Repeal

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section II
Effective Date

The effective date of this ordinance shall be the date of its publication.

YEAS:

NAYS:

ABSENT:

Angela Burnside

Township Clerk

I, Angela Burnside, the Clerk of the Charter Township of Gaines of Kent County Michigan, attests that the foregoing is a true and accurate copy of an ordinance adopted by the Board of Trustees, of the Charter Township of Gaines of Kent County Michigan at a regularly scheduled meeting held on January ____, 2019, which meeting was held in accordance with state law.

Angela Burnside

Township Clerk