

ORDINANCE NO. 4

SUBDIVISION AND DEVELOPMENT REGULATIONS

REGULATING THE FILING FOR RECORD OF SUBDIVISION PLATS AND ESTABLISHING CONSTRUCTION STANDARDS AND OTHER REQUIREMENTS PERTINENT THERETO FOR ALL SUBDIVISIONS SITUATED INSIDE THE BOUNDARIES AND EXTRA TERRITORIAL JURISDICTION OF THE CITY OF KURTEN, TEXAS.

THE STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

An Ordinance of the City of Kurten, Texas, setting forth that the requirements and policies for the subdivision of certain property and construction of roads and streets in such subdivisions in Kurten, Texas, under the provisions of Chapter 212 of the Local Government Code, Vernon's Texas Codes.

ARTICLE I.
PREAMBLE AND PURPOSE

A. Purpose. These Subdivision and Development Regulations have been adopted by the City Council of the City of Kurten to provide a framework for the orderly and efficient development of the City of Kurten, Texas.

B. Authority. These Subdivision Regulations have been adopted based on the following findings:

1. The City Council of Kurten has the authority to regulate the subdivision process pursuant to Local Government Code, Section 212.001 et.seq.;
2. The City Council of Kurten has the authority and obligation to protect the public health, safety and welfare of the citizens of Kurten, Texas.

C. Necessity. The City Council of Kurten, following public notice and hearing, has declared and hereby declares these Regulations to be necessary and appropriate to accomplish the purposes and goals enumerated above.

ARTICLE II.
DEFINITIONS

A. Definitions. As used in these regulations, the following words shall have the meanings set forth below:

1. "ADDITION" - addition shall have the same meaning as subdivision as defined herein.
2. "CITY" – The City of Kurten, Texas, a General Law type B municipality.
3. "CITY COUNCIL" - the duly elected and serving Mayor of Kurten and the five (5) Alderman.
4. "CITY ENGINEER" – The engineer on staff at the City or that engineer or engineering firm under contract to the City to provide the services described herein.
5. "DWELLING UNIT" - Any building or structure, other than a Single Family Residence, connected to or served by a sewerage facility, including multi-family apartment complexes, any residential development other than Single Family Houses (i.e. tri or quad plexes).
6. "ENGINEER" - a registered Professional Engineer, licensed by the State of Texas in accordance with existing laws.
7. "EXTRATERRITORIAL JURISDICTION" - that unincorporated area contiguous to the corporate boundaries of the City and which is within the distance authorized by law to be claimed by the City as its Extraterritorial Jurisdiction. Such area comprising the Extraterritorial Jurisdiction for the City is evidenced on maps on file in the office of the secretary of the City.
8. "FINAL PLAT" - A map of a proposed Subdivision of land prepared in a form suitable for filing of record with all necessary survey drawings, notes, information, affidavits, dedications and acceptances as required by these Regulations.
9. "HEALTH DISTRICT" - The Brazos County Health District.
10. "MANUFACTURED HOME RENTAL COMMUNITY" – is a plot or tract of land that is separated into two or more spaces or lots that are rented, leased, or offered for rent or lease, for a term of less than 60 months without a purchase option, for the installation of manufactured homes for the use and occupancy as residences.
11. "MORTGAGEE" - the person, firm, corporation, or other legal entity, holding any mortgage, deed of trust lien, or other encumbrance, covering the tract of land sought to be subdivided pursuant to these regulations, or any portion of such tract.
12. "ORIGINAL TRACT" - The original tract of land owned by an Owner prior to the proposed Subdivision.

13. "OWNER" - the person, firm, corporation or other legal entity, or combination thereof, owning legal fee simple title to the tract of land sought to be subdivided pursuant to these regulations. Also referred to as a "SUBDIVIDER".
14. "PERMITTED AEROBIC ON-SITE WASTEWATER SYSTEM" - An on-site system of sewage disposal, which has been licensed by the Brazos County Health District, utilizing an aerobic treatment system designed to encourage use of the effluent for irrigation on the premises and with all effluent meeting the criteria established by the Health District.
15. "PRELIMINARY PLAN" - A map of proposed Subdivision of land showing the general dimensions and boundaries of the Resulting Tract, the lay out of the proposed streets and other information required by these Regulations.
16. "PRIVATE SEPTIC SYSTEM" - On or off site sewerage facilities including septic tanks, sewage holding tanks, chemical toilets, treatment tanks and all other such facilities and systems other than Public Sewer Systems.
17. "PUBLIC SEWER SYSTEM" - Any public or private sewerage system for the collection of sewage that flows into a treatment and disposal system that is regulated pursuant to the rules of the Texas Natural Resource Conservation Commission and Chapter 26 of the Texas Water Code.
18. "RAINFALL CATCHMENT SYSTEM" - Any system for capturing rainwater and converting it to household use without reliance on a well or other, which is approved by the Brazos County Health Department.
19. "RECORD PLAT" - A plat that has received final approval from the City Council and contains those disclosures and certifications required by Article IV E hereof.
20. "RESULTING TRACT" - Any tract to be created by the division of the Original Tract pursuant to the proposed Subdivision application, including the remainder of the Original Tract.
21. "SUBDIVISION" - any division of a tract of lands into two (2) or more parts (i) to lay out a subdivision of the tract, including an addition, or (ii) to lay out subdivision, building or other lots or (iii) to lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks or other parts. The term includes a re-subdivision of any tract in an existing subdivision, and when appropriate to the context, shall relate to the process of subdividing or to the land subdivided. A division of a tract includes a division regardless of whether it is made by metes and bounds description in a deed of conveyance, or in a contract for deed or other executive contract to convey or) or by using any other method of conveyance of an interest in land.

22. "SURVEYOR" - a Registered Professional Land Surveyor (RPLS), licensed by the State of Texas in accordance with existing law.

ARTICLE III.

GENERAL REQUIREMENTS AND EXCEPTIONS

A. Subdividing of Property. The owner or owners of any tract of land situated inside the boundaries or Extra Territorial jurisdiction of Kurten, Texas, who, subsequent to the effective date of these regulations, has divided or will divide the same in two (2) or more parts for the purpose (i) of laying out any subdivision of any such tract of land, or (ii) for laying out lots or (iii) to lay out, streets, parks, alleys, or squares, including and addition, or other portion intended for public use, or for the use of the purchasers or owners of such lots fronting on or adjacent to the streets, alleys, squares, parks or other parts of such tract, must comply with the rules and regulations adopted herein. A division of a tract includes a division regardless of whether it is made by metes and bounds description in a deed of conveyance, or in a contract for deed or other executive contract to convey or by using any other method of conveyance of an interest in land.

B. Exceptions to Plat Requirement. A plat is not required as set forth herein (i) if the Owner's division of a tract of land into two or more parts, is a division of land into parts greater than five acres, where each part has access and no public improvement in being dedicated; (ii) if the resulting Tract is sold, given or otherwise transferred to a person who is related to the Owner within the third degree of consanguinity or affinity as determined under Texas Government Code, Chapter 573, or (iii) the Resulting Tract is sold, given or otherwise transferred to a person owning title to an adjoining or contiguous tract of land.

C. Invalidity. In the event that any portion of these specification should be held unconstitutional, or invalid, other parts hereof shall not be affected thereby and they shall be held in effect unless and until otherwise changed by the City Council of Kurten, Texas, and so recorded in its Minutes.

D. Health Issues. Owners of properties in Kurten, Texas subdividing or resubdividing the same shall familiarize themselves with the rules for sanitation and avoidance of water, air, or other types of pollution as established by Federal or State statute or regulation or by the Health District. Special attention is called to regulations adopted by the City Council of Kurten, Brazos County, Texas relating to private sewage facilities.

ARTICLE IV.

PLATS, PROCEDURE AND REQUIREMENTS

A. Stages of Platting. The provisions of Section 212.009 of the Local Government Code, shall apply, with respect to obtaining approval from the City Council before filing the plat with the County Clerk of Brazos County and before conveyances by deed or contract of sale may

be made. No subdivision shall be permitted until the Owner has satisfied each of the following steps in the order indicated:

1. (FIRST PHASE/PRELIMINARY PLAN) Owners of Property contemplating the subdividing of raw or other types of lands as defined herein, shall (a) complete an Application For Subdivision form promulgated by the City Engineer's Office; and (b) submit same with all appropriate attachments to the City Engineer. The City Engineer will review the Application form and not later than 10 business days after such form with attachments is filed or submitted to the City Engineer's Office, notify the applicant of missing documents or information.
2. (PROPOSED FINAL PLAT PLAN) Following the procedure outlined in Paragraph IV A.1, above, if the Subdivider decides to continue with his project he shall supply all documents and information identified as missing pursuant to Paragraph A.1 above and, shall submit a Proposed Final Plat to the City Engineer with the Application for conditional approval within 5 days of the date the City Engineer has notified Subdivider of additional requests. Within 15 business days of such submittal, the City Engineer will grant approval, conditioned upon satisfaction of the requirements set out in Paragraph A(3) below.
3. (FINAL PLAT) After conditional approval of the Proposed Final Plat as stated in Paragraph A.2 above, the Owner shall within 10 business days of such conditional approval (a) stake out the tract on the ground in accordance with the conditional approval given to the Final Plat; and (b) post a construction bond or Letter of Credit as set forth in Article IX B hereof to guarantee completion of improvements stipulated, or alternatively, complete all streets and other improvements and obtain acceptance thereof as set forth in Article XI hereof. The City Council shall within 20 business days after completion of the above requirements, review the Proposed Final Plat and other material or documents, and grant or reject such final Plat. If the Plat is rejected, the City Council shall provide a complete list of the reasons for such rejection. After final approval of the plat and acceptance of the bond or Letter of Credit, the Subdivider shall record the approved Final Plat and other documents with the County Clerk and can then proceed with his development plans and programs, and thereafter, the sale of tracts within the subdivision.

B. Failure to Act. If the City Council or its designee fails to take action within the time schedule set forth above

1. the City Council shall refund the greater of the unexpended portion, if any, of the Plat application fee or deposit or 50% of a plat application fee or deposit that has been paid; and

2. the plat application shall be granted by operation of law.

C. Additional Requirements for Final Plat of Subdivision. A request for approval of a proposed Final Plat will satisfy all the following requirements:

1. Concurrently with the filing of an application for Final Plat approval, an Owner seeking to construct streets that will be accepted by the City for maintenance, shall submit the following:
 - (a) Construction Plans for all streets within the subdivision, including plan and profile;
 - (b) A certification under the seal of a Professional Engineer that the Construction Plans are in compliance with these Regulations;
 - (c) The anticipated cost, per linear foot, of each street; and
 - (d) The total estimated construction cost of all of the streets and drainage structures proposed to be constructed within the subdivision.
2. Concurrently with the filing of an application for Final Plat approval which contemplates a Homeowners Association to maintain the streets within the Subdivision, the Owner shall submit the following:
 - (a) Ready-for-execution copies of the articles of incorporation and bylaws of the Homeowners Association, which has effective revenue capacity and enforcement procedures to fund the road maintenance contemplated for the subdivision.
 - (b) The anticipated cost, per linear foot, of each street proposed to be constructed within the Subdivision;
 - (c) The total estimated construction cost of all the streets proposed to be constructed within the Subdivision; and
 - (d) The minimum annual assessments that will be imposed upon members of the Homeowners Association.
3. Concurrently with the filing of an application for Final Plat approval in all subdivisions for which the source of water supply intended for the subdivision is groundwater under the Original Tract, the Owner shall as part of and as an attachment to such application include a statement that (i) is prepared by an engineer and (ii) certifies that adequate groundwater is

available for the subdivision. Such certification shall be in the form established by the Texas Natural Resources Conservation Commission by rule.

D. Recorded Plat. Within Ten (10) days following approval of the Final Plat, the Owner shall present a Record Plat to the City Engineer for delivery to the Mayor for execution. The Record Plat shall contain, or be submitted with, the following:

1. All revisions necessary to comply with any conditions to approval of the Final Plat stipulated by the City Council.
2. Final Construction Plans for all streets and drainage improvements, certified under the seal of a professional engineer to be in compliance with these Regulations.
3. Construction and maintenance security required under Articles IX and XII or executed Articles of Incorporation and bylaws for an approved Homeowner's Association, as applicable.
4. All boundaries and dimensions and certified to as to accuracy by the Engineer or Surveyor preparing the same from an actual survey on the ground. It also must show in reasonable detail the location and width of existing and dedicated streets, lots, and utility and drainage easements, and similar facts regarding all property immediately adjacent thereto.
5. All information shall be prepared at a scale so as to be legible after the reduction and recording process. (maximum 1"=200'; Preferred 1"=100')
6. A location map showing the location of the subdivision in the City of Kurten.
7. A clear delineation of any property lying below the 100 year flood plain elevation, as established by the Corp of Engineers, or a note to the effect that "Information regarding areas of this property subject to the flooding (100 year flood plain) has not been developed by the U. S. Corps of Engineers. Buyers of property are cautioned to make personal inquiry as to local flood hazards."
8. A clear delineation of any area within the subdivision known to Owner or Surveyor/Engineer to be subject to frequent flooding.
9. An outlined note to the effect that no private sewage facility may be installed on any lot in this subdivision without the prior issuance of a license by the Brazos County Health District under the provisions of the Private Sewage Facility Regulations adopted by the Commissioners Court of Brazos

County, Texas and accepted by Interlocal Agreement by the City Council of Kurten, pursuant to the provisions of the Texas Health and Safety Code.

A Letter of Acknowledgement from the Brazos County Health District shall be required.

10. Certificates and Dedications as follows:

(a) Certificate of Ownership and Dedication as follows:

"I (or we) _____ owner(s) of the land shown on this plat and designated herein as _____, a subdivision in Kurten, Texas, hereby dedicated to the use of the public forever all rights-of-way, easements, and other public places shown herein.

Signature

With appropriate acknowledgement(s).

(b) A Certificate of Mortgagee, if any, as follows:

"The undersigned, holder of a deed of trust lien or other encumbrance against the property subdivided herein, hereby joins in the dedication of all streets, alleys, parks, and utility easements to the public as set forth in the Owner's Certificate hereon.

Dated this _____ day of _____, 20__.

Mortgagee

With appropriate acknowledgement(s).

(c) A Certificate of Surveyor as follows:

"I, _____, Registered Professional Land Surveyor, in the State of Texas, hereby certify that this plat is true and correct, was prepared from an actual survey of the property made on the ground under my supervision.

Surveyor

(d) A Certificate of Engineer as follows:

"I, _____, Registered Engineer, certify that proper engineering consideration has been given to the improvements described herein.

Engineer

(e) A Certificate of Approval as follows:

"This subdivision plat was duly approved by the City Council of the City of Kurten, Texas, as the Final Plat of such subdivision on the _____ day of _____, 20__.

Signed this the _____ day of _____, 20__.

Mayor
Kurten, Texas

(f) A Certificate of the County Clerk as follows:

"I, _____, County Clerk of Brazos County, Texas, do hereby certify that this plat, with its certificates of authentication was filed for record on the _____ day of _____, 20__, and duly recorded in Volume _____, Page _____, Official Records of Brazos County, Texas.

County Clerk
Brazos County, Texas

11. The name of the subdivision, number of acres contained therein, the survey in which it is located, and a list of streets by name showing centerline length of street.

12. A clear delineation of all existing recorded easements lying within the boundaries of subdivision (pipeline, utilities, drainage, etc.).
13. Such other information as necessary to comply with and describe the requirements imposed by these regulations.

E. Form of Final Plat. The Final Plat shall be an original drawing on Mylar Material, or other paper approved by the City Council, with true dimensions to correspond with the Engineer's scale as described on said plat. The Plat must be on one or more sheets measuring twenty-four (24) inches wide and thirty-six (36) inches long in size, with a two and one-half (2 1/2) inch binding margin on the left of said sheet, and an appropriate margin on each of the other three (3) sides. Where the area being subdivided will not fit in the aforesaid dimensions, two (2) or more sheets shall be used. If two (2) or more sheets are used, a key map showing the entire area shall be drawn on the first sheet, or on a separate sheet. Eight copies will be required. Also, a computer disk of the plat will be required when applicable in microstation or AutoCAD format, of the layout of the lots and streets (to scale and with State Plane Coordinates, Central Texas Zone) within the development, shall be submitted for incorporation into the community wide map.

F. Fees. Fees of the Office of the County Clerk in the amount then in effect shall be paid at the time the Final Plat is filed.

ARTICLE V.

SUBDIVISION REQUIREMENTS

A. Subdivision and Resubdivisions Within a City's Extraterritorial Jurisdiction. Subdivisions and Resubdivisions within the extraterritorial jurisdiction of the City shall conform to the requirements as set forth below.

1. Subdivisions within the extraterritorial jurisdiction of the City shall conform to the subdivision and construction requirements set forth herein, except that:
 - a. no utilities may be placed in the street rights-of-way, but shall be placed in utility easements provided for that purpose; except that with a 100' right-of-way this provision may be waived by City Council;
 - b. the entire width of all street rights-of-way shall be cleared; and
 - c. the size and number of residential units that can be built on one acre of land shall not be restricted;
 - d. the use of any building or property for business, industrial, or residential shall not be restricted;

- e. the bulk, height or number of buildings constructed on a particular tract of land shall not be restricted;
 - f. the size of a building that can be constructed on a particular tract, including without limitation any restriction on the ratio of building floor space to the land square footage shall not be limited;
 - g. The Plat shall require joint approval of the City and the Commissioners Court of Brazos County, Texas, and any bond filed shall be payable jointly to the City and County Judge as specified herein.
2. It shall be duty of the person filing the Plat or replat to ascertain if the tract or subdivision falls within the extraterritorial jurisdiction of the City.

B. Subdivision of Less than One Acre. Subdivisions where any lot is less than one (1) acre shall conform to the following requirements:

1. The City of Bryan standards for a comparable subdivision if located within that City, except that:
 - a. no utilities may be placed in the street rights-of-way, but shall be placed in utility easements provided for that purpose, except that with a 100' rights-of-way this provision may be waived by City Council.
 - b. the entire width of all street rights-of-way shall be cleared; and
 - c. any requirements of these regulations that exceed requirements of said City of Bryan or are not imposed by said City of Bryan shall be met.
2. Subdivisions described in Paragraph V.B above shall, in addition to the City of Bryan standards, meet the requirements of Section IV; Section VIII; Section IX; Section XI; Section XII; and Section XIII.

C. Subdivision of One Acre or More. Any subdivision where all lots exceed one (1) acre in size, except lots exempt under Article III B3 hereof, shall conform to the following requirements:

1. The name of the proposed subdivision must not be the same or deceptively similar in spelling to the name of any other subdivision in the City or Brazos County. Street names shall be used which avoid duplication or similarity to

any existing street in Kurten, or Brazos County. Streets which are a continuation of any existing street shall take the name of the existing street.

2. Lot and block number are to be arranged in a systematic order and shown on the plat in distinct and legible figures.
3. Boundary lines must be shown by bearings and distances, calling for the lines of established surveys, landmarks, school districts, and other data furnished, sufficient to locate the property on the ground. All blocks, corners, and angles in streets and alleys shall be marked according to the "Minimum Standards of Practice" approved by the Texas Board of Professional Land Surveying.
4. Location of lots, streets, parks, easements, and other features must be shown with accurate dimensions in feet and decimals of feet. Lots must have a minimum road frontage of one hundred fifty feet (150'). Length of radii and arcs of all curves, with bearings of all tangents, must be shown, also distances from all angle points and points of curve to lot lines.
5. Arterial, or main lateral streets, or set back lines, are to be provided in locations where the City Council, and the City Engineer consider them necessary. Driveway entrances directly onto highways and thoroughfares are discouraged by the City and the City Council reserves the right to reject a plat for final approval if the lots within such subdivision provide for direct driveway entrance onto and off of highways and thoroughfares.
6. Designated thoroughfares shall have a minimum right-of-way of one hundred feet (100'). All other streets must provide unhampered circulation through the subdivision and shall have a minimum width of right-of-way of seventy feet (70'), unless otherwise approved by City Council. Where a dead-end street is designed to be so permanently, a cul-de-sac shall be provided at the closed end having an outside Right-of-Way diameter of one hundred feet (100') and a roadway diameter of sixty feet (60'). Dead-end streets may be platted where the City Council and the City Engineer deem desirable and where the land adjoins property not subdivided, in which case, the streets shall be carried to the boundaries thereof. Where a proposed subdivision abuts an existing county road having less than the minimum required right-of-way, the Owner shall dedicate or cause to be dedicated sufficient additional right-of-way to meet minimum City requirements. Maximum length of cul de sac and dead end portions of streets shall be 1000 feet.
7. All streets are to intersect at ninety (90) degree angles; where this is not possible, the intersection on the side of the acute angle must be cut back, at a minimum fifty feet (50') radius as specified by the City Engineer.

8. In cases where new streets, as platted, intersect with established streets, the new streets shall be, if practicable, a continuation without offset of any intersecting street on the opposite side of said established street.
9. No street shall have an abrupt offset, "jog", or sharp turn of less than a radius of 200R. For maintenance and safety reasons, the City favors and encourages sweeping curves when planning the proposed subdivision.
10. Where streets in an adjoining subdivision dead-end at the property line of the new subdivision, the said streets shall be continued through the new subdivision, either on a straight line, or a curve as provided elsewhere herein. Where no adjacent connections are platted, the streets in the new subdivision must in general be the reasonable projections of streets in the adjacent subdivided tracts. All streets in new subdivisions shall be platted so that a continuation of said streets may be made in other subdivisions in the future.
11. Where part of a street has been dedicated in an adjoining subdivision adjacent to and along the common property line of two (2) subdivisions, enough width of right-of-way must be dedicated in the new subdivision to provide the minimum width specified herein.
12. No squares, "islands", or other obstructions to traffic shall be reserved within the right-of-way; this shall not exclude small parts where the streets are properly curved, or esplanades. If exceptions are permitted, traffic lanes shall still be required to be 12 feet in width with additional shoulder and appropriate delineation.
13. Points of access from existing streets and roads to adjacent property where no street exists shall be clearly shown.
14. All streets and roads shall be marked by signs approved by the City Engineer (street names, curves, delineators, etc) but not stop signs or speed limit signs unless a formal engineering study is done to substantiate the necessity of these signs.
15. Any damage to existing streets and roads resulting from construction shall be repaired by the Owner at no cost to the City, and to the satisfaction of the City Council and City Engineer, in their sole discretion.
16. Dedication of utility easements not less than sixteen feet (16') wide must be provided for public use on each side of all streets. No structure of any type shall be placed on said easement and unrestricted passage must be maintained at all times. Where conditions make this impractical an easement

on only one side of the road may be provided, not less than twenty feet (20') in width. There shall also be a ten foot (10') wide utility easement along the sides and backs of all lots. All utility easements shall lie and be situated completely within the subdivision boundaries. The Owner shall coordinate utility installations with all utility companies prior to submission of the Final Plat. All utility easements along roads or streets shall be cleared of all brush and small trees.

17. No utilities may be placed under any street. All utilities shall be within the designated utility easements. If street crossing is required, utility must be in steel encasement or other approved encasement by City Engineer.
18. All existing utilities, and pipelines which require relocation or adjustment in order to avoid conflict with proposed streets, utilities, or other improvements shall be relocated, adjusted, or modified at no expense to the City. Owner shall bear the responsibility for compliance with federal, state, and local regulations and requirements regarding such utilities and pipelines.
19. The plat shall show all natural drains and water courses as they exist on the ground. The plat shall also show all existing and proposed contours at intervals of two feet (2') for grades up to 5% and intervals not more than five feet (5') for grades over 5%.
20. Layouts that will cause unsatisfactory drainage conditions, or that will unduly complicate maintenance of streets, will not be accepted.
21. Drainage courses in subdivisions containing small lots and blocks shall be dedicated. Such drainage courses shall provide for erosion control during and after construction which complies with all Federal and State environmental laws, including but not limited to the Federal Clean Water Act. In subdivisions comprised exclusively of "acreage tracts" of five (5) or more acres in size, an easement will be accepted. Such easement shall have a minimum width of twenty feet (20').
22. The 100 year flood plain elevation must be clearly delineated on the Plat as shown by the flood prone maps supplied by the U. S. Corps of Engineers. In areas subject to flooding where information has not been developed by the U. S. Corps of Engineers, caution to prospective purchasers to make personal inquiries as to flooding hazards must appear on the Final Plat as described in Article IV.C.8. Those lots containing acreage any part of which is within the 100 year flood plain must delineate on the plat the minimum finished floor elevation. No building may be constructed on any lot where the finished slab level will be lower than one foot (1') above the 100 year flood plain elevation established by the U. S. Corps of Engineers.

23. Tracts adjacent to all roads, including but not limited to any State and Federal roads, will have a fifty foot (50') building set back line.
24. Adequate off-street parking space must be provided in business or commercial areas.
25. A certificate from each tax collector of a political subdivision in which the property is located must accompany the plat to be recorded, showing that all taxes owing to the State, County, School District, and/or any other political subdivision have been paid in full to date.
26. Where an adequate supply of water is available, the installation of fire plugs in locations and numbers deemed necessary or advisable.
27. On streets having curbs and gutters the City will have no maintenance responsibility back of curb.
28. A certificate of permanent dedication, duly acknowledged, of all streets, parks, playgrounds, utility and drainage easements, and other land intended for public use shall be part of the plat. The dedication must be absolute and unconditional.
29. Installation and maintenance of access driveway facilities shall be in accordance with Regulations for Access Driveways to State Highways, adopted by the Texas Department of Transportation.

D. Resubdivisions. Resubdivision of lots of any size where prior plat has not been vacated shall conform to the following requests:

1. Where there is an existing subdivision and one or more lots or tracts are to be resubdivided in the same, the Subdivider shall apply in writing to the City Council for permission to revise the subdivision plat recorded with the County Clerk. After the application is filed with the City Council, the Council shall publish a notice of application in a newspaper of general circulation in the City, not less than 15 days prior to the date of public hearing. The notice shall state the time and place at which the Council will meet to consider the application and to hear protests to such revision. If all or any part of the subdivided tract has been sold to non-developer owners, the Council shall give notice to each of those owners of lots in the subdivision that are within 200 feet of the lot(s) to be replatted, according to the most recently approved municipal tax rolls or if in the ETJ, according to the most recently approved County tax roll, by U.S. mail at the owner's(s) address in the subdivision.

2. No replat shall permit the amendment or removal of any subdivision covenants or restrictions.
3. If the City Council authorizes such revision, the Subdivider after complying with all other requirements specified herein appropriate to such subdivision, shall file a revised plat with the County Clerk's Office, which must be executed by the owners of the property being replatted.

E. Amending Plat. The City Council upon application may approve and issue an amending plat, if the plat is signed by the applicant(s) and is for a purpose set forth in Local Government Code §212.016, as amended from time to time.

ARTICLE VI.

STREET DESIGN AND CONSTRUCTION WITHIN SUBDIVISION

A. Permitted Streets. All streets appearing within a subdivision, whether maintained by the City or a homeowners association, shall be constructed in accordance with the Construction Standards set forth in Article VIII herein and shall be classified as one of the three following types of streets (referred to collectively as "Permitted Streets")

1. Publicly dedicated, paved and to be maintained by the City and constructed pursuant to Article VIII;
2. Publicly dedicated, not paved and to be maintained by a HOA in perpetuity (or until constructed to then-applicable City standards for acceptance of maintenance, and accepted for maintenance by resolution of the City Council) and constructed pursuant to Article VIII; or
3. Private, paved and to be maintained by a HOA in perpetuity (or until constructed to then-applicable City standards for acceptance of maintenance) accepted for maintenance by resolution of the City Council, dedicated to the public, and constructed pursuant to Article VIII.

B. Dedication to Public. Any dedication to the public shall be accomplished by a deed or plat dedicating the fee interest in the property to the City for public use.

C. Construction Standards. The construction standards for Permitted Streets is set forth in Article VIII below.

D. Publicly Maintained & Dedicated Paved Streets. Paved streets dedicated to the public shall be required in all Subdivisions not satisfying the criteria for unpaved streets or private streets, as set forth below. All such paved streets shall be designed and constructed in accordance with the specifications set forth herein in Article VIII.

E. Privately Maintained, Publicly Dedicated Unpaved Streets. Unpaved streets shall be permitted only within a Subdivision satisfying each of the following criteria:

1. All Resulting Tracts within the Subdivision shall be at least [5] acres in size;
2. The following note shall be conspicuously displayed on the Plat:

[Owner], by filing this Plat of Record, and all future owners of property within this Subdivision by purchasing such property, acknowledge and agree that they shall be forever barred from petitioning the City of Kurten to repair or accept maintenance of the roads shown on this subdivision until [Owner] and/or the _____ Homeowners Association has improved the roadways to the standards required by the City of Kurten. [Owner] and all future owners of property within this Subdivision shall look solely to the _____ Homeowners Association for future maintenance and repair of the roads and streets shown on this Subdivision; and

3. Restrictive covenants establishing a homeowners association which has effective revenue raising capacity and enforcement procedures to fund road maintenance, shall be placed of record concurrently with the recording of the Record Plat.
4. Restrictive covenants shall be imposed on all of the Resulting Tracts served by the unpaved road forbidding future re-subdivision on any tract into lots smaller than five acres unless the road is first constructed to the City's standards then in effect for paved roads and accepted for maintenance by the City.
5. All unpaved streets shall be designed and constructed in accordance with Construction Standards set forth in Article VIII.

F. Privately Maintained, Private Paved Streets. Private streets shall be permitted only within a Subdivision satisfying each of the following criteria:

1. All Resulting Tracts within the Subdivision shall be [5] acres in size or larger or the City Council shall have entered into an approved Development Agreement with the Owner regarding the development of a master-planned community; and
2. The following note shall be conspicuously displayed on the Plat:

[Owner], by filing this Plat of Record, and all future owners of property within this Subdivision, by purchasing such property, acknowledge and agree that they shall be forever barred from petitioning the City Council to repair or accept maintenance of the roads shown on this subdivision until [Owner] and/or the _____

Homeowners Association has dedicated the roads to the public and improved the roadways to the standards required by the City of Kurten. [Owner] and all future owners of property within this Subdivision shall look solely to the _____ Homeowners Association for future maintenance and repair of the roads and streets shown on this Subdivision; and

3. Restrictive covenants establishing a homeowners association, which has effective revenue raising capacity and enforcement procedures to fund road maintenance, shall be placed of record concurrently with the recording of the Final Plat.
4. All private streets shall be designed and constructed in accordance with the standards specified in Article VIII for paved, publicly dedicated streets.

**ARTICLE VII.
WASTE WATER TREATMENT RESTRICTION**

A. Minimum Lot Sizes for Lots Served by Surface Water or Rainwater Collection Systems. All Resulting Tracts served by Surface Water or Rainwater Collection Systems shall have the following minimum sizes, depending upon the indicated type of wastewater treatment system of the Resulting Tract:

<u>Wastewater Application</u>	<u>Minimum Lot Size</u>
Public Sewer	No minimum
Permitted Aerobic On-Site System	0.5 acres
Waste water System	0.5 acres
Private Septic	1.0 acre

B. Minimum Lot Sizes for Lots Not Served by Surface Water or Rainwater Collection Systems (e.g., all lots served by private wells or any water distribution system utilizing ground water). All Resulting Tracts not served by Surface Water or Rainwater Collection Systems shall have the following minimum sizes, depending upon the indicated type of waste water treatment system of the Resulting Tract:

<u>Waste water Application</u>	<u>Minimum Lot Size</u>
Public Sewer	0.25 acres

Permitted Aerobic On-Site Waste water System	1.0 acres
Private Septic	1.0 acres

ARTICLE VIII.
CONSTRUCTION STANDARDS

A. Compliance with the Law. All design and construction of streets, alleys, drainage facilities, and utilities must conform with current standards and specifications and sound engineering principles, for the type of subdivision contemplated under these regulations. All trees and underbrush shall be removed from entire width of right-of-way.

The Owner shall be responsible for compliance with all applicable statutes and regulations of the State and United States respecting construction and installation of roads and roadways at their crossing or intersections with utilities, including but not limited to railroads, pipelines, electrical transmission lines, water lines and natural gas lines.

B. Surface Drainage. Generally, it is desired that surface drainage from private property be taken to streets, alleys, or drainage courses as quickly as possible and that drainage water from streets and alleys be taken to defined drainage courses as quickly as possible. The practice of using streets and alleys as major drainage courses will not be accepted.

The Subdivider will seed or sod all bar ditches to establish a permanent vegetation.

C. Street Grades and Elevations. Minimum grades of streets from the center of the crown to the edge of the road normally shall be three-tenths of one percent (0.30%) and shall not be so steep that destructive velocities may occur, unless provision is made to prevent erosion of earthen ditches, or damage to pavements.

Profiles of streets shall be furnished, showing existing centerline elevations, both right-of-way line elevations and proposed centerline grade.

At creek or other drainage crossings where consideration must be given to the proper handling of stormwater, a profile of the flow line of such creek or other drain extending sufficient distance both upstream and downstream to determine proper street grade and size of drainage structure at such crossing will be required.

These must be shown on plat with elevations in reference to roadway street, or alley.

D. Drainage Structures. Drainage structures of a permanent type shall be provided at crossings of drainage courses with streets where prescribed by the City Council or the City Engineer in order that a minimum of inconvenience and hazard to the traveling public will occur,

and in order to minimize damage to, and excessive maintenance of public property. Such drainage structures shall have a minimum of twenty-eight (28) feet clear roadway and shall be of sufficient size to insure the capacity to carry anticipated drainage waters. (A 25 year storm for non-trapped conditions and 100 year storm for trapped conditions). For sites in a 100 year flood plain, calculations to support or justify size of pipes to be used must be provided.

E. Open Channels and Ditches. Open channels and ditches shall be constructed to proper cross-section, grade and alignment so as to function properly, and without permitting destructive velocities.

F. Unpaved Permitted Streets. If a Permitted Street satisfies the requirements of Article VI.E, the installation of a Quality Gravel Road shall be permitted.

G. Subgrade, Base and Surface Treatment of Streets Without Curbs. Where a street section (without curbs) is constructed, the flexible base shall have a minimum thickness of six inches (6") after compaction, and a minimum of twenty-eight (28) feet wide from shoulder line to shoulder line and feather edges as shown on Brazos County Road Section (See Appendix "B" and "C" attached hereto and made a part hereof for all purposes). The wearing surface shall be a minimum width of twenty-four (24) feet. All road building materials shall be approved by the City Engineer prior to construction.

The subgrade, flexible base, and surface treatment of such streets shall be as described below:

1. Subgrade.

a. Description. Subgrade shall consist of existing subgrade material or an approved material, furnished by the contractor, containing sufficient fines (soil binder) to form a firm subgrade which can be shaped and trimmed to true subgrade level.

b. Materials. Existing subgrade material may be used if its moisture content (determined by standard laboratory methods AASHTO Designation 146-49) is below the material's plastic limit. Existing subgrade material at or above its plastic limit must be stabilized according to the direction of the Engineer.

Test results of material samples proposed for use shall be submitted to the Engineer for approval of the source prior to the delivery of any such material to the job. If at any time the material delivered show too great a variation from the approved sample, the Engineer may reject the delivery and order the material removed from the work.

Lime stabilization of subgrade material will be required on all Arterial streets. Lime stabilization of subgrade material will be required on Collector

or Local streets if the plasticity index (PI) of the material exceeds 18, as established by testing according to TXDOT Test Method Tex 106-E. Lime stabilization will be conducted in accordance with TXDOT, Standard Specifications No. 260.

Cement stabilization of subgrade material will be required on any street if the plasticity index (PI) of the material is less than 4, as established by testing according to TXDOT Test Method Tex 106-E. Cement stabilization will be conducted in accordance with the TXDOT, Standard Specification Item No. 275.

c. Compaction. Subgrade material hauled to job site shall be spread uniformly and compacted to required thickness by means of approved compaction equipment. Existing subgrade material (in place or stabilized) and material hauled to the job site shall be compacted to ninety-five (95) percent of the TXDOT Test Method Tex-113-E Density and within +/- two (2) percent of optimum moisture content.

d. Fees. Cost of testing and inspection will be paid by the developer.

2. Flexible Base.

a. Description. This item shall consist of a foundation course for surface course or for other base courses; shall be composed of crusher-run broken stone; and shall be constructed as herein specified in one or more courses in conformity with the typical sections shown on Plans and to the lines and grades as established by the Engineer.

b. Materials. The material shall be obtained from approved sources, shall be crushed, and shall consist of durable particles of stone mixed with approved binding materials. Testing of flexible base materials shall be in accordance with the following TXDOT standard laboratory test procedures:

- 1) Preparation for Soil Constants and Sieve Analysis..... Tex-101-E
- 2) Liquid Limit Tex-104-E
- 3) Plastic Limit Tex-105-E
- 4) Plasticity Index Tex-106-E
- 5) Sieve Analysis Tex-110-E
- 6) Wet Ball Mill..... Tex-116-E
- 7) Triaxial Test..... Tex-117-E

Unless otherwise specified on the plans, job-control samples for testing the materials for Soil Constants, Gradation and Wet Ball Mill shall be taken prior to the compaction operations.

Unless otherwise specified on the plans, all base material will be stockpiled after crushing; tested by the testing agency designated by the City Engineer; and approved by the City Engineer prior to being hauled to the project site.

The material shall be well graded and when properly tested, shall meet the following requirements:

Retained on Sq. Sieve:

1-3/4"	0
7/8"	10-35
3/8"	30-50
No. 4	45-65
No. 40	70-85
Maximum Liquid Limit.....	35
Maximum Plasticity Index	10
Max. Wet Ball Mill.....	50

Minimum compressive strength when subjected to the triaxial test: 35 psi at 0 psi lateral pressure and 175 psi at 15 psi lateral pressure, unless otherwise designated on the plans. The maximum increase in material passing the number 40 sieve resulting from the Wet Ball Mill Test shall not exceed 20, unless otherwise shown on plans.

c. Material Sources. The material shall be secured from sources approved by the Engineer. The pits as utilized shall be opened up in such manner as to immediately expose the vertical faces of all of the various strata of acceptable material, and unless otherwise directed, the material shall be secured in successive vertical cuts extending through all of the exposed strata.

d. Construction Methods.

1. Preparation of Subgrade: The roadbed shall be excavated and shaped in conformity with the typical sections shown on Plans and to the lines and grades as established by the Engineer. All unstable or otherwise objectionable materials shall be removed from the subgrade and replaced with approved material. All holes, ruts and depressions shall be filled with approved material, and if required, the subgrade shall be thoroughly wetted with water and reshaped and rolled to the extent directed in order to place the subgrade in an acceptable condition to receive the base material. The surface of the subgrade shall be finished to line and grade as established and in conformity with the typical section shown on Plans, and any deviation in excess of 0.04 feet in cross-section and in a length of

sixteen (16) feet measured longitudinally shall be corrected by loosening, adding or removing material, reshaping and compacting by sprinkling and rolling. Sufficient subgrade shall be prepared in advance to insure satisfactory prosecution of the work. Material excavated in the preparation of the subgrade shall be utilized in the construction of adjacent shoulders and slopes or otherwise disposed of as directed, and any additional material required for the completion of the shoulders and slopes shall be secured from sources indicated on Plans or designated by the Engineer.

Lime stabilization of subgrade material will be required on all Arterial streets. Lime stabilization of subgrade material will be required on all Collector and Local streets if the plasticity index (PI) of the material exceeds 18, as established by testing according to TXDOT Test Method Tex-106-E. Lime stabilization will be conducted in accordance with the TXDOT, Standard Specification No. 260.

Cement stabilization of subgrade material will be required on any street if the plasticity index (PI) is less than 4, as established by testing according to TXDOT Test Method Tex 106-E. Cement stabilization will be conducted in accordance with the TXDOT, Standard Specification No. 275.

2. First Course. Immediately before placing the base material, the subgrade shall be checked as to conformity with grade and section.

The material shall be delivered in approved vehicles of a uniform capacity, and it shall be the charge of the Contractor that the required amount of specified material shall be delivered in each one hundred (100) foot station. Material deposited upon the subgrade shall be spread and shaped the same day. In the event inclement weather or other unforeseen circumstances render impractical the spreading of the material during the first twenty-four (24) hour period, the material shall be scarified and spread as directed by the Engineer. The material shall be sprinkled, if directed, and shall then be bladed, dragged, and shaped to conform to typical sections as shown on Plans. All areas and "nests" of segregated coarse or fine material shall be corrected or removed and replace with well graded material, as directed by the Engineer. If additional binder is considered desirable or necessary after the material is spread and shaped, it shall be furnished and applied in the amount directed by the Engineer.

Such binder material shall be carefully and evenly incorporated with the material in place by scarifying, harrowing, brooming, or by other

approved methods. The course shall then be sprinkled as required and rolled as directed until a uniform compaction is secured. Throughout this entire operation, the shape of the course shall be maintained by blading and the surface upon completion shall be smooth and in conformity with the typical sections shown on Plans and to the established lines and grades. In that area on which pavement is to be placed, any deviation in excess of 0.04 feet in cross-section and in a length of sixteen (16) feet measured longitudinally shall be corrected by loosening, adding or removing material, reshaping and recompacting by sprinkling and rolling. All irregularities, depressions or weak spots which develop shall be corrected immediately by scarifying the areas affected, adding suitable material as required, reshaping and recompacting by sprinkling and rolling.

The utilization of traffic to compact and bind the base course or courses is an essential part of the contract and is of prime importance to the satisfactory completion of the work. As directed by the Engineer, each course shall be opened to traffic, and the Contractor shall direct and distribute the traffic uniformly over the entire width of the course. During the period traffic is being directed over the course, the surface shall be satisfactorily maintained by the use of a sufficient number of approved blades, drags, and such other equipment as is required, and these operations shall continue until the base course is sufficiently compacted to ninety-five (95) percent of the TXDOT Test Method Tex-113-E Density within plus or minus two (2) percent of optimum moisture content.

3. Succeeding Courses. Construction methods shall be the same as prescribed for the first course.

e. Measurement. Crushed stone will be measured by the square yard, complete in place, by the cubic yard, loose vehicle measurement, or by the cubic yard, complete in place as indicated in the proposal.

f. Payment. This item will be paid for at the contract unit price bid for "Flexible Base" which price shall be full compensation for all work herein specified, including the furnishing, hauling, and placing of all materials, for all water required, and for all equipment, tools, labor, and incidentals necessary to complete the work.

The cost of testing and inspection will be paid by the developer.

3. Two Course Surface Treatment.

In general, this item will be in accordance with the Texas Department of Transportation Standard Specifications for Construction of Highways (1993 Edition). See Item 316, starting on Page 304. Some specifics are as follows:

a. Description - This section shall consist of a wearing surface composed of two applications of asphaltic material, each covered with aggregate and constructed on the prepared base course or surface in accordance with these Specifications.

Two course surface treatment shall not be applied when the air temperature is below 50E F. and falling and it may be applied when the air temperature is above 40E F. and rising, the temperature being taken in the open shade and away from artificial heat. Asphaltic material shall not be placed when in the opinion of the Engineer, general weather conditions are not suitable. The second application of asphaltic material should not be applied until eighty percent (80%) of the subdivision has been built out or the minimum two year developers maintenance has been completed.

b. Materials.

1. Asphaltic Materials: The asphaltic materials used shall be one or more of the materials prescribed in the Texas Department of Transportation, Standard Specifications for Construction, Item No. 300, "Asphalts, Oil and Emulsions Requirements".

2. Aggregate: The aggregate used shall consist of clean, tough, durable fragments of crushed limestone or gravel of uniform quality throughout, free from dirt, organic or other injurious matter occurring either freely in material or as a coating on aggregate. Percent of wear, when tested by AASHTO Designation T-96-70, shall not exceed thirty-five (35). Gradation shall be as specified below:

.....	Sieve Size	Percent Retained
	3/4 - inch sieve		0
	5/8 - inch sieve		0-2
	1/2 - inch sieve		20-35
	3/8 - inch sieve		85-100
	1/4 - inch sieve		95-100
	No. 10 sieve		98-100

c. Construction Methods. (First and Second Course)

1. Base Preparation. Apply asphalt only when temperature is above 55E F. and is rising. Take temperature in shade and away from artificial heat. Place no asphalt when general weather conditions, in opinion of Engineer, are not suitable. Clean base surface of dirt, dust, or other deleterious matter by sweeping with rotary broom or other acceptable means. If necessary, sprinkle lightly with water just prior to application of asphalt.

2. Heating Asphalt. Keep clean and in good operating condition at all times all storage tanks, piping, retorts, booster tank, and distributors used in storing or handling asphalt. Operate all equipment in such manner as to prevent contamination of asphalt with foreign material. Do not heat asphalt above 400E F at any time, and apply at temperature of not less than 275E F. and not more than 375E F. All asphalt material heated above 400E F. will be rejected.

3. Asphalt Application Rate. Apply to clean base at rate of approximately 0.33 gallon of asphalt per square yard. Minimum application rate of 0.25 gallon per square yard and maximum of 0.40 gallon per square yard.

4. Applying Asphalt. Apply on clean surface with approved type of self-propelled pressure distributor, operated as to distribute material in quantity specified as to distribute material in quantity specified, evenly and smoothly, under pressure for proper distribution. Provide all necessary facilities for determining temperature of asphalt and for securing uniformity at junction of two distributor loads. Apply full width of surface in one application.

5. Aggregate Application Rate. Not less than one cubic yard of aggregate per one hundred square yards of surface. Not more than one cubic yard of aggregate per eighty square yards of surface.

6. Applying Aggregate. Cover asphalt with aggregate in amount specified and blade with wire dragbroom maintainer or other approved leveling device. After applying aggregate, broom and roll entire surface with self-propelled, three-wheeled roller, weighing between three and eight tons. Pneumatic roller may be used if size and type meet approval of Engineer. Repeat brooming and rolling on two successive working days after application of aggregate for each application.

d. Measurement. Asphaltic materials will be measured in gallons at the applied temperature at the point of application on the road.

Aggregate will be measured by the cubic yard in vehicles as applied on the road.

e. Payment. The work performed and materials furnished as prescribed by this section and measured as above provided will be paid for at the Unit Price bid for "Two-Course Surface Treatment", which prices shall each be full compensation for cleaning and sprinkling the base, for furnishing, preparing, hauling, rolling, and placing all materials, and for all manipulations, labor, tools, equipment, and incidentals, necessary to complete the work.

The cost for testing and inspection will be paid by the developer and certified by a licensed professional engineer.

2. Hot Mix Asphaltic Concrete Pavement

Should the Owner/Engineer elect to do so, one and one-half (1 ½") inches of the type D. modified HMAC may be substituted for the two course surface treatment. The material specifications, laying, rolling, measurement, etc., will be in accordance with the Texas Department of Transportation Standard Specifications for Construction of Highways (1993 Edition). See Item 340, starting on Page 377.

ARTICLE IX.
BONDING REQUIREMENTS FOR FILING OF PLAT PRIOR TO
CONSTRUCTION

A. Determination of Amount of Security. In order to insure that the streets and other drainage improvements in approved subdivisions are constructed in accordance with the above specifications, any Owner desiring to file the approved Final Plat prior to completion and acceptance of the construction of such streets and other improvements may post a form of security, as hereinafter described, in an amount to be fixed and determined as follows;

1. Where no drainage structures or other additional construction costs are involved.
 - a. For paved streets with curb - \$50.00 per linear foot
 - b. For paved street - \$30.00 per linear foot
2. Where drainage structures or other additional construction costs are involved, add estimated cost of additional labor and materials to amount of Bond fixed above.

The above distances determining the linear feet involved are to be measured along the center line of said street or alley between the intersections of said center lines.

B. Forms of Security. If the Subdivider decides or elects to file security in lieu of completing construction prior to Final Plat approval, he may utilize one of the following methods of posting security. Compliance with the following procedures relative to posting security must be satisfied prior to Final Plat Approval:

1. Construction Bond:
 - a. File with the City Council a bond, which shall be (i) executed with sureties as may be approved by the Council, or (ii) executed by a surety company holding a license to do business in the State of Texas, (iii) made payable to the Mayor of Kurten, Texas, and his successors in office, (iv) approved by the City Council, (v) in an amount required by this Article IX.A, and; (vi) for a term equal to the estimated time for completion as determined by the City Council.
 - b. The conditions of said Construction Bond the violation of which will create liability for the obligees on the bond, shall be that (i) the Owner of said approved and accepted subdivision shall begin construction of such streets as are shown on the Final Plat within a period of ninety (90) days from the date of the approval of the Final Plat of said subdivision by the City Council; and (ii) the Subdivider shall prosecute and complete such construction in accordance with the specifications required by these Regulations within a reasonable number of working days to be determined and agreed upon by the Owner and the City Council. The Construction Bond shall remain in full force and effect until all streets and other improvements have been completed as required by the plans and specifications herein stated and are accepted by the City, as defined in Article XI herein.
2. Unconditional Guarantee From Local Bank or Local Savings and Loan Association or Other Financial Institution as approved by the City Council:
 - a. File with the City Council a letter of credit, in form approved by the City Council, signed by a principal officer of a local bank or local savings and loan association or other financial institution, acceptable to the City Council, agreeing to pay to the City, on demand, a stipulated sum of money to apply to the estimated cost of installation of all improvements for which the Subdivider is responsible under these Regulations. The guaranteed payment sum shall be the estimated cost of all improvements required by these regulations,

approved by the City Council. This guarantee of payment shall not expire until all streets and other improvements have been completed in accordance with the Regulations and are accepted by the City Council, as provided in Article XI herein. The letter shall state the name of the subdivision and shall list the improvements which the Subdivider is required to provide.

3. The Subdivider may file cash in an amount fixed and determined by this Article IX.A.

Bonds will not be accepted from the developer's contractor. Bonds must be filed and provided by the developer.

C. Enforcement. If a form of security is to be filed by the Subdivider as set out in Article IX.B above, the City Engineer shall inspect such improvements upon completion of construction. If premised upon such inspection, the construction fails to meet the requirements of these Regulations and are not accepted as required by Article XI, and the Subdivider after notice and an opportunity to cure such inadequacies does not take the appropriate steps to obtain approval, the City Council shall proceed to enforce the guarantees provided in these Regulations and execute on the bond or letter of guarantee, as appropriate.

D. Extension. When good cause exists, the City Council may extend the period of time for completion of the roads and improvements for which security has been posted. Such extension of time shall be reported by the City Council and recorded in the Minutes. No such extension shall be granted unless security as required by this Article IX.B. has been provided by the Subdivider covering the extended period of time.

E. Utility Connections. Neither the Subdivider, the contractor nor subcontractor shall make a connection to or tap into the County and/or City water distribution system, electric system, or sanitary sewer system. The subdivider shall furnish all necessary materials to the appropriate utility or entity to make the final tap or connection.

ARTICLE X. REQUIREMENT FOR FILING PLAT IF NO SECURITY GIVEN

If the Subdivider chooses not to post a construction bond or obtain a letter of guarantee from a financial institution, he must complete all construction of the streets and other improvements and obtain acceptance thereof as provided in Article XI below, prior to obtaining the approval of the Final Plat.

ARTICLE XI.
ACCEPTANCE OF STREETS AND OTHER IMPROVEMENTS
FOR FINAL PLAT FILING

Acceptance of streets and other improvements for City maintenance shall be evidenced by an instrument signed by the City Council as a result of formal Council action. No acceptance shall be issued until the City Council has (i) received a certificate of a licensed professional engineer that all improvements have been completed in accordance with these Regulations and good engineering practice; (ii) if a public street is involved, a deed has been executed and delivered to the City; and (iii) the Maintenance Bond or cash deposit in lieu of bond, as required by Section XII below, shall have been posted. All costs associated with furnishing the necessary certificate hereunder shall be borne by Owner.

ARTICLE XII.
MAINTENANCE

A. Maintenance Term. The Owner shall be responsible for maintenance of all streets, rights-of-way, and other improvements for a period of two (2) years after the date of acceptance of the construction, as provided for in Article XI above. Such period may be extended by the City Council if the roads and other improvements are not being maintained in good repair as of the expiration of such two (2) year period.

B. Bond. In order to insure adequate maintenance by the Owner, each Owner shall, prior to acceptance by the City of the streets and other improvements, for purposes of filing the Final Plat, file a Maintenance Bond, executed by a Surety Company authorized to do business in the State of Texas, payable to the Mayor of Kurten, Texas, and his successors in office, in an amount determined as follows:

1. For paved streets with curbs - 5% of amount of Construction Bond.
2. For paved streets - 10% of the amount of the Construction Bond.

C. Bond Term. The conditions of said Maintenance Bond shall be that the Owner shall guarantee to maintain to the satisfaction of the City Council and the City Engineer, all of the streets shown on the accepted and approved Final Plat, in a good state of repair for the period of at least two (2) years beginning on the date of acceptance of construction for platting purposes; provided however, if such roads are not maintained in good repair during that time the Owner should be required to obtain an extension of such bond until such time as the roads are repaired to City standards or alternatively, in the City's discretion, the City may maintain said streets at the cost and expense of the obligees on the bond.

D. Cash Security for Maintenance. At the option of Owner, Owner may deposit with the City, United States Currency or a cashier's check in an amount equal to the amount of the maintenance bond specified above, in lieu of such Maintenance Bond. Such funds shall be held by Kurten for at least two (2) years after acceptance of the construction for platting purposes. Such funds may be used during such period for the costs of such maintenance as Owner, after written

notice, fails or refuses to perform. After the expiration of such two (2) year period, such cash deposit, or the unexpended balance thereof, shall be refunded to Owner; provided however, if such roads are not maintained in good repair during that time the City will continue to hold such deposit until the roads are repaired to City standards or are used by the City to make such repairs itself.

E. Maintenance Inspections. Periodic inspections of all of the streets that have been approved and accepted for platting purposes in an approved subdivision will be made by the City Engineer during the period of liability covered by the Maintenance Bond, and in the event any or all of said streets are not being maintained in a good state of repair, the Owner will be so advised in writing and if after a reasonable time he fails or refuses to properly maintain said streets, they shall then be maintained at the cost and expense of obligees on the bond or from the cash on deposit as required by Paragraphs B and D above.

F. Expiration of Maintenance Term. If after the expiration of two (2) years from the date of acceptance of the construction for platting purposes, such streets and other improvements are in good repair, the City in its sole discretion will in writing accept such streets and other improvements for maintenance (except if such streets are to be privately maintained) and release the security on its bond or refund the cash on deposit, as appropriate.

G. Limitation on Acceptance. The City acceptance for maintenance of the roads and other improvements shall not include the maintenance of utility easements, but shall include maintenance of drainage easements.

ARTICLE XIII

MANUFACTURED HOME RENTAL COMMUNITIES

A. Exemption From Regulations. A property developed as a Manufactured Home Rental Community and not subdivided from another tract as defined in Article III A of these Regulations is not subject to the subdivision regulations established herein. However, the owner who intends to use the land for a Manufactured Home Rental Community must have an infrastructure development plan prepared that complies with the minimum infrastructure standards established in Article XIII of these Regulations.

B. Infrastructure Development Plan. An Infrastructure Development Plan (IDP) is required for all Manufactured Home Rental Communities, as defined in these regulations by the City.

1. General Requirements. The following general requirements shall be applicable to all Infrastructure Development Plans:

a. The development shall have a minimum of seventy (70') feet fronting a street or roadway which has been previously dedicated to the public for the public's use and benefit as a street or roadway. Access roads to the

individual rental spaces must be constructed to City Standards for Subdivisions. See Article VIII.

- b. No space may contain more than one single-family residential unit. No common driveways shall be allowed. Each space shall have separate and individual access.
- c. A survey of the property shall be submitted to the City Engineer's Office prior to the request by the owner or occupier of the lot for any permit and/or utility services.
- d. The owner shall submit an Application form provided by the City Engineers Office, signed by the owner, that stipulates the intention of the owner; name, address, phone number of the owner; names of water and electricity providers; name of wastewater provider or type and usage of onsite sewage facilities; and other pertinent information as set forth therein.

2. Minimum Requirements. The Infrastructure Development Plan (IDP) shall show at minimum the following:

- a. Only 24" x 36" sheets will be acceptable on mylar material and at a maximum scale of 1"=200' (1"=100' preferred), or as approved by the City Engineer. An index on the first sheet is required when more than two sheets are required for the IDP.
- b. Names, locations, dimensions (bearings and distances), and layouts of existing and proposed streets, alleys, easements, and other public rights-of-way and public/private encumbrances (deed restrictions, etc.) on the property and any proposed street right-of-way, easement, alley, park, or other public dedication.
- c. Dimensions, bearings and distances, of the proposed rental spaces.
- d. Signatures and date of approval and certifications on the IDP. These approval signatures shall not be more than six (6) months prior to the submission. Examples of the required acknowledgements and certifications are as contained in the exhibits attached hereto.
- e. Legal description, acreage, and name of the proposed Development. The Development's name shall not be spelled or pronounced similarly to the name of any existing Development or Subdivision located within the County.

- f. The boundary of the Development indicated by a heavy line and described by bearings and distances.
- g. Scale, legend, north arrow, spot elevations on 100' or an appropriate grid, with two foot (2.0') contour lines. Alternate contour intervals may be submitted, based on terrain, with approval from the City Engineers Office.
- h. Deed record, name of owner, volume and page number of adjoining properties.
- i. Dates of survey and preparation of IDP.
- j. Identification code, location, description, and elevation of the USGS or appropriate benchmark used in the survey.
- k. Front building setback lines. Back and side building setback lines by note.
- l. Location of the City's corporate limit line or extra territorial jurisdiction line.
- m. Vicinity map with streets, ditches, general drainage flow directions to the ultimate outfall, city limits and ETJs, and other major land features.
- n. Net area (gross area less easements) of rental spaces to the nearest 1/100 of an acre for lots using On Site Sewage Facilities and/or well water.
- o. Limits of flood hazard areas as defined by the appropriate FEMA FIRM panel and the proposed finished floor elevation of buildings within these flood hazard areas on each space.
- p. A certification by a Surveyor or Engineer describing any area of the Development that is in a Flood plain or stating that no area is in a Flood plain, as delineated by the appropriate FEMA FIRM panel and date.
- q. A surveyor's signature and seal on the IDP for certification.
- r. The description of the water and sewer facilities, electricity and gas utilities, and roadways and easements dedicated for the provision of water and sewer facilities that will be constructed or installed to serve the Development and a statement of the date by which the facilities

will be fully operable, prepared by an Engineer (may be included in an attached document). A certification must be included that the water and sewer facilities described by the IDF, or document attached to the IDP, are in compliance with these Regulations.

- s. Approvals by other regulatory and governing bodies, as required, including, but not limited to, the approval of the Brazos County Emergency 911 District as to street names.

3. Document List. The IDP submittal shall also include the following documents:

- a. Letters signed and dated from water, wastewater, and electric utilities of service commitment and availability and statement of approval of existing and proposed utility easements.
- b. A tax certificate showing that all taxes currently due with respect to the original tract have been paid.
- c. Results of soils analysis certified by a qualified site evaluator (as defined by 30 TAC Chapter 285) for on-site sewage facilities (OSSF).
- d. Engineering Design Construction Plans for roadway access to each rental space for fire and emergency vehicles.
- e. Drainage design plans to ensure adequate drainage off of the rental spaces to drainage channels and out of the Development, including the design of drainage structures, culverts, and/or systems using a 25 year storm frequency in non trapped area and 100 year storm frequency in trapped area, such that drainage out of the Development does not have a negative drainage impact on neighboring properties. If additional right of way (ROW) is required for existing City/County road drainage and access as determined by the City Engineer to achieve a 70 foot wide Right of Way or to meet requirements of the City, the owner shall dedicate these rights of way to the City.
- f. The Engineering Report, as described in Article XIIC of these regulations.

4. Inspection of Improvements. Construction of a proposed Manufactured Home Rental Community may not begin before the date the City Engineer approves the IDP. Periodic inspection of the improvements may be required, as directed by the City Engineer. If the City Engineer directs that a final inspection is required, it must be completed not later than the second business day after the date the City Engineer receives a written confirmation from the owner that the construction of the infrastructure is complete. If the inspector determines that the infrastructure improvements comply with the IDP, then the City Engineer shall issue a

Certificate of Compliance not later than the fifth business day after the date the City Engineer receives written confirmation from the owner that the infrastructure has been completed and in compliance with the IDP.

5. Utilities. A utility may not provide utility services, including water, sewer, gas, electric services, to a Manufactured Home Rental Community subject to an IDP or to a manufactured home in the community unless the owner provides the utility with a copy of the Certificate of Compliance issued by the City Engineer. This requirement applies to:
 - a. A municipality that provides utility services;
 - b. A municipality owned or municipally operated utility that provides utility services;
 - c. A public utility that provides utility services;
 - d. A nonprofit water supply or sewer service corporation organized and operating under Chapter 67, Water Code, that provides utility services;
 - e. A county that provides utility services; and
 - f. A special district of authority created by state law that provides that utility services.

6. Timely Approval of Infrastructure Development Plans. Not later than the 60th day after the date the owner of a proposed Manufactured Home Rental Community submits an infrastructure development plan for approval, the City Council shall approve or reject the plan in writing. If the plan is rejected, the written rejection must specify the reasons for the rejection and the actions required for approval of the plan. The failure to reject a plan within the period prescribed herein constitutes approval of the plan.

C. Engineering Report for Manufactured Home Rental Communities. An Engineering Report for Manufactured Home Rental Communities signed, dated, and sealed by a licensed professional engineer registered in Texas, shall contain detailed and definitive information on the following:

1. Water Supply Facilities
 - a. Public Water Systems
 - (1) If the water supplier is a political subdivision of the state: a city, municipality, utility district, water control and improvement district, nonprofit water supply corporation,

etc., the Developer shall furnish a signed letter of service availability from the water supplier to provide that state's minimum requirements of quality and quantity of water to the proposed Development.

(2) Where there is no existing facility or owner intends to construct and maintain the proposed water supply facilities, the Developer may establish an investor-owned utility or create a municipal utility district and obtain a Certificate of Convenience and Necessity (CCN) from the Texas Natural Resources Conservation Commission (TNRCC) and include evidence of the CCN issuance for the Development area. Prior to IDP approval, plans and specifications for the proposed water facilities system shall have been approved by all entities having jurisdiction over the proposed project, including TNRCC.

(3) Water service must be extended into the Development to each lot or rental space if the existing water lines are located within 300 feet of the Development and if there is sufficient water available by the water supplier.

b. Private Wells or Non-public Water Systems – Quantitative and qualitative results of sampling test wells in accordance with requirements promulgated by the TNRCC and the Texas Department of Health shall be included where individual wells are proposed for the supply of drinking water to residences and other establishments. The results of the analyses shall be made available to the prospective property owners or renters.

c. Prior to IDP approval, plans and specifications for the proposed water facilities system shall have been approved by all entities having jurisdiction over the proposed project, including TNRCC. Evidence of the approvals shall be included in the Engineering Report.

2. Wastewater Disposal Facilities

a. Centralized Sewerage Facilities

(1) If wastewater treatment is provided by a political subdivision of the state (city, municipality, utility district, water control and improvement district, nonprofit water supply corporation or an existing investor-owned water supply corporation, etc.) the Developer shall furnish a signed letter of service availability to provide the state's minimum wastewater treatment standard for the proposed Development from the utility.

- (2) Where there is no existing entity or owner to build or maintain the proposed wastewater treatment and collection facilities, the Developer may establish an investor-owned utility or a municipal utility district by obtaining a Certificate of Convenience and Necessity (CCN) from the TNRCC.
 - (3) Prior to IDP approval, an appropriate permit to treat and/or dispose of waste for the ultimate build-out of the Development shall have been obtained from the TNRCC and plans and specifications for the proposed wastewater collection and treatment facilities shall have been approved by all entities having jurisdiction over the proposed project, including TNRCC. Evidence of the approvals shall be included in the Engineering Report.
 - (4) Wastewater disposal service must be extended into the Development to each lot or rental space if the existing wastewater lines are within 200 feet of the Development and there is sufficient wastewater capacity available from the wastewater service provider.
- b. On-Site Sewage Facilities The engineering report shall include soils Analysis results as required under the Brazos County Regulations for On-Site Sewage Facilities, as adopted by the City.
3. Roadways. The Engineering Report shall include a description of the roadways within the Community, and include information on the roadway cross section, pavement width and thickness, base thickness, subgrade treatment, material specifications, and other specifications in accordance with Article VIII hereof. Plans and specifications for these improvements shall also be submitted to the City Engineer for approval prior to construction.
 4. Signage Plan. A signage plan for the streets to be constructed, if any, is to be included that shows an overall street layout depicting the location and description of signs and traffic control devices to be installed. The traffic control devices will include street name signs, stop signs, yield signs, speed limit signs, directional controls, striping, and delineators, etc. and shall be in accordance with the Texas Manual on Uniform Traffic Control Devices.
 5. Traffic Impact Study. For Manufactured Home Rental Communities of 100 spaces or greater, the Engineering Report may, at the request of the City Engineer, be required to include a Traffic Impact Study in accordance with the requirements of the City of Bryan to assess the effects of additional traffic on the existing and proposed transportation system.

6. Drainage. The Engineering Report shall include information on the Development and roadway drainage, culverts, conveyances, outfalls, and other information as required to properly convey the storm water within and away from the Development. Plans and specifications for these improvements shall also be submitted to the City Engineer for approval prior to construction.
7. Electronic Submission. A computer floppy disk or CD-ROM with a file in micro station or AutoCAD format of the layout of the lots and streets (to scale and with state plane coordinates central Texas zone) within the Development shall be submitted for incorporation into the County-wide map.

**ARTICLE XIV.
FEES**

A. A fee schedule shall be set from time to time by resolution of the City Council sufficient to defray the cost of processing the applications made pursuant to this Ordinance. Beginning with the approval and passage of this Ordinance and continuing until a new resolution is passed, the following fees shall apply:

FEE SCHEDULE

Plat Application/Preliminary Plan	\$125.00
Final Plat	\$100.00
Amending Plat	\$100.00
Replat	\$100.00
Variance	\$150.00
Infrastructure Development Plan (Manufactured Home Rental Community)	\$100.00
Copy of Subdivision Ordinance	\$ 10.00
Copy of City of Kurten Boundary Survey May (8-1/2"x14')	5.00

**ARTICLE XV.
VARIANCES**

A. Variances to these regulations are generally discouraged, however, specific cases will be considered on an individual basis (hardship, etc) and approved or denied by the City Council after receiving input from the developer and the City Engineer.

ARTICLE XVI.
ENFORCEMENT

A. Injunction. Any violation or threatened violation of these subdivision regulations, may be enjoined upon request of the City Council to the City Attorney or other prosecuting attorney for the City.

B. Damages. The City Council may institute legal action against an Owner to recover damages in an amount adequate to undertake any construction or other acts necessary to bring about compliance with these subdivision regulations. Violations in the City's ETJ shall not be subject to fines or criminal penalties.

ARTICLE XVII.
OTHER PROVISIONS


A. Effective Date. These regulations shall be in full force and effect from and after June 7, 2001, and supersede all prior regulations relating to the subject matter hereof.

B. Amendments. These regulations are subject to amendment from time to time. All persons are advised to consult the City Council to acquaint themselves with any such amendments.

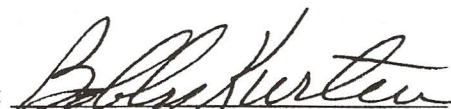
The foregoing ordinance was Passed and Approved on the 7th day of June 2001, in Kurten, Brazos County, Texas.

ATTEST:

CITY OF KURTEN



Kelly Plagens, Secretary

By: 

Bobby Kurten, Mayor

ORIG

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