

City of Kurten

ZONING ORDINANCE

ORDINANCE NUMBER 17

Revision History (see **Addenda**)

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ARTICLE 1

Title, Purpose, Application, Validity and Savings Clause

Section 1.01 Title

This Ordinance, in accordance with the authority granted by the State of Texas in TITLE 7, CHAPTER 211, of the Local Government Code, shall be known and may be cited as the Kurten Zoning Ordinance.

Section 1.02 Purpose

The Kurten Zoning Ordinance is specifically aimed at protecting the public health, safety, morals, and the general welfare of the citizens of the City. The regulations are necessary to encourage the most appropriate use of land; to reduce fire hazards and to improve public safety; to decrease traffic congestion and its accompanying hazards; to prevent the undue concentration of population; to bring existing and future land use activities into conformance with the City's long-range land use planning; to create a comprehensive and stable pattern of land uses; to maintain and stabilize property values; to develop an efficient and effective basis upon which to provide services for water supply, sanitary and storm sewer systems, pedestrian and automobile circulation, schools, parks, and other public facilities.

Section 1.03 Application

This Ordinance classifies and regulates the use of land and structures within the city limits of Kurten, as hereinafter set forth. Except as hereinafter provided, no land may be used and no structure may be erected, constructed, moved, altered, enlarged, or rebuilt unless it shall be used and maintained in accordance with the requirements established for the district in which the structure is to be located, and in accordance with the provisions of this Ordinance as they pertain to districts.

Section 1.04 Relationship to the Kurten Comprehensive Plan

The regulations contained herein have been developed in accordance with a comprehensive land use-planning program for the orderly growth and development of the City of Kurten. This Ordinance has been designed to incorporate and implement the goals, objectives, and policies of the City of Kurten.

Section 1.05 Effective Date and Application

This Ordinance takes effect upon adoption by the City Council. Upon that date and thereafter, the provisions of this Ordinance supersede all other development regulations governing the development of land within Kurten. All development applications and proposals filed on or after the effective date of this Ordinance, whether for new developments or for additions or expansions of existing developments, shall be processed in accordance with the standards and requirements and pursuant to the procedures herein established, except insofar as such

applications are governed by the development regulations adopted prior to the effective date of this Ordinance.

Section 1.06 Validity and Savings Clause

All sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any such section, paragraph, sentence, clause or phrase is declared unconstitutional or otherwise invalid in any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not cause any remaining section, paragraph, sentence, clause, or phrase of this Ordinance to fail or become inoperative.



ARTICLE 2

Administration

Section 2.01 Zoning Officer

2.01.01 Primary Responsibility for Enforcement: The Zoning Officer shall be the designated authority charged with the administration and enforcement of this Ordinance. The Mayor or a designee of the Mayor shall serve in this capacity. The Zoning Officer may also serve as the staff advisor to the City Council, Planning and Zoning Commission, Board of Adjustment, city staff, and citizens relating to the administration, interpretation, implementation, and enforcement of the provisions of this Ordinance.

2.01.02 Duties: The Zoning Officer shall have the following duties:

- A. The Zoning Officer shall have the power to make inspections of buildings and premises to carry out the duties prescribed herein.
- B. The Zoning Officer shall examine all Land Use Permit applications and shall certify that the proposed construction, moving, alteration, or use complies with the provisions of this Ordinance.
- C. The Zoning Officer shall certify all Certificates of Occupancy prior to their issuance.
- D. The Zoning Officer shall investigate alleged violations of this Ordinance, and shall conduct a visual inspection of all uses within the City. If a violation or suspected violation is found, enforcement efforts shall be undertaken by the Zoning Officer.
- E. The Zoning Officer shall perform such other duties as assigned by the Mayor relating to the administration, interpretation, implementation, and enforcement of the provisions of this Ordinance.

Section 2.02 Certificate of Occupancy

2.02.01 When Required: A Certificate of Occupancy shall be required for any of the following:

- A. Occupancy and use of a building hereafter erected or structurally altered;
- B. Change in use of an existing building to a use of a different classification;
- C. Occupancy and use of vacant land, except agricultural use;
- D. Change in the use of land to a use of a different classification; and
- E. Any major or significant modification, alteration, or change to a legal nonconforming use.

- 2.02.02 Occupancy Without Certificate Prohibited: No such use, or change of use, shall be permitted unless a Certificate of Occupancy, approved by the Zoning Officer, has been issued.
- 2.02.03 Procedure for New or Altered Buildings: Written application for a Certificate of Occupancy for a new building or for an existing building which is to be altered shall be made at the same time as the application for the Land Use Permit for such building. Said Certificate shall be issued within ten (10) days after a written request for the same has been made to the Zoning Officer or his agent, and only after the erection or alteration of such building or part thereof has been completed in conformity with the provisions of this Ordinance. The Zoning Officer shall issue the Certificate of Occupancy not more than ten (10) days after the erection or alteration has been approved by the City.
- 2.02.04 Procedure for Vacant Land Use or a Change in Building Use: Written application for a Certificate of Occupancy for the use of vacant land, or for a change in the use of land or a building, or for a change in a nonconforming use to a conforming use, as herein provided, shall be submitted to the Zoning Officer for review on forms available in the Zoning Officer's office. If the proposed use is in conformity with the provisions of this Ordinance and has been approved by the Zoning Officer, the Certificate of Occupancy shall be issued within ten (10) days after the application has been made.
- 2.02.05 Contents of Certificate of Occupancy: Every Certificate of Occupancy shall state that the building or the proposed use of a building or land complies with all provisions of Kurten's codes and ordinances. A record of all Certificates of Occupancy shall be kept on file in the office of the Zoning Officer or a designee and copies shall be furnished upon request to any person having proprietary or tenancy interest in the building or land affected.
- 2.02.06 Temporary Certificate: Pending the issuance of a regular certificate, a temporary Certificate of Occupancy may be issued by the Zoning Officer for a period not exceeding six (6) months, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificates shall not be construed as in any way altering the respective rights, duties, or obligations of the owners or of the City relating to the use or occupancy of the premises or any other matter covered by this Ordinance.
- 2.02.07 Land Use Permit Required: An application for a Land Use Permit shall be required for any property where a change in land use activities is intended, or where any new construction or reconstruction of a building or buildings exceeding five hundred (500) feet in area is intended. The preceding provisions of this section of the Ordinance do not apply to the use of land or buildings for legitimate agricultural purposes.
- 2.02.08 Land Use Permit Procedure: An application for a Land Use Permit shall be made to the Kurten Zoning Officer prior to any non-agricultural change of land use, or building construction. Said application shall be submitted to the Zoning Officer on forms provided by the City. The Zoning Officer shall determine compliance or noncompliance with the laws of the City of Kurten. The Zoning Officer shall approve or deny said Land Use Permit not more than ten (10) days after the receipt of the application for same. Failure of the Zoning Officer to act within the ten (10) day period shall constitute

approval of the Land Use Permit. The Zoning Officer shall provide each applicant with a written statement of approval or denial of said permit. Statements of denial by the Zoning Officer shall enumerate the reasons for said denial of the Land Use Permit. Applicants denied a Land Use Permit may appeal to the Board of Adjustment in accordance with Article 8 of this Ordinance. A complete record of land use permit applications shall be maintained by the Zoning Officer. Said record shall be included in the Zoning Officer's contribution to the Annual Report.

2.02.09 Land Use Permit Required for Utility Services: An approved Land Use Permit shall be required prior to the provision of utility services to any land in Kurten by the following:

Brazos County Health Department
Bryan Texas Utilities (BTU)
Wickson Creek Special Utilities District
Texas Department of Transportation

Section 2.03 Amendments to the Zoning Map and Text

2.03.01 Purpose of Amendments: The purpose of an amendment procedure is to provide for changes in the text of the Zoning Ordinance (text amendment) or to change the boundaries of zoning districts (rezoning) shown on the Official Zoning Map. Since these regulations represent the City's effort to provide for the orderly development of the community, no change shall be made in these regulations except:

- A. to correct an error in the regulations or map;
- B. to recognize changed or changing conditions or circumstances in a particular locality or area;

or

- C. to recognize a change in public plans or policies that affect the property.

2.03.02 Comprehensive Planning Activities Controlling: No amendment shall be made to this Ordinance which is not in compliance with the City's long-range comprehensive planning program..

2.03.03 Applicant Qualifications: Any person, or corporation, or an authorized agent interested in any property, may initiate proceedings to allow the consideration of a change in the zoning classification of such property or to the regulations pertaining to said property. In the event that ownership stated on the application and that shown on City records are different, the applicant shall submit proof of ownership or legal standing to submit the application. The Planning and Zoning Commission or City Council may, on its own motion, initiate proceedings to consider a change to the zoning on any property or to the regulations pertaining to property, when it finds that the public interest would be served by consideration of such a request.

2.03.04 Application Form: Each application for a text amendment or rezoning shall be made in writing on a form provided by the Zoning Officer and shall be filed with the Zoning Officer. Each application shall be accompanied by payment of the appropriate fee. An

application for a rezoning shall also include plans and drawings in a form acceptable to the Zoning Officer and containing sufficient information necessary to determine the impact on properties affected by the rezoning request.

- 2.03.05 Scheduled Dates and Notification – Zoning Map Amendment Applications: Upon receipt of a complete application for a zoning map amendment (rezoning), the Zoning Officer shall set a date for a public hearing before the Planning and Zoning Commission and the City Council. Not less than ten (10) days before the public hearing, written notice shall be sent to all owners of real property, as indicated on the most recently approved municipal tax roll, located within two-hundred (200') feet of the property to be rezoned. The notice may be served by its deposit in the United States Mail, within the City of Kurten, properly addressed with postage paid.

Not less than fifteen (15) days before the public hearing, notice of the hearing shall be published in an official newspaper or a newspaper of general circulation in Kurten.

- 2.03.06 Scheduled Dates and Notification - Text Amendment Applications: Upon receipt of a complete application for a text amendment, the Zoning Officer shall set a date for a public hearing before the Planning and Zoning Commission. Not less than fifteen (15) days before the public hearing, notice of the hearing shall be published in an official newspaper or a newspaper of general circulation in the City of Kurten without the necessity for notifying property owners by mail.

- 2.03.07 Withdrawal of Application: Prior to the issuance of the notice of a public hearing before the Planning and Zoning Commission and City Council, the applicant may, by written notice to the Zoning Officer, withdraw the application or request rescheduling of the public hearing to a later regular meeting date. Once public notice is given, the applicant may withdraw the application or request for rescheduling only with the approval of the City Council. The City Council may reject a request to withdraw an application or request to reschedule and conduct the public hearing as stated in the notification and take action as appropriate within the context of the public notice provided. Not less than fifteen (15) days before the public hearing, notice of the hearing shall be published in an official newspaper or a newspaper of general circulation in the City of Kurten.

- 2.03.08 Planning and Zoning Commission Report: After public hearing, the Planning and Zoning Commission shall submit a report to the City Council with a recommendation that the application be approved, approved with amendments and conditions, tabled, or denied. The vote of the Planning and Zoning Commission at the conclusion of a public hearing and the minutes pertaining to it shall constitute the Commission's final report to the City Council.

- 2.03.09 Protests: In the event a protest to an application is filed with the Zoning Officer, duly signed and acknowledged, by the owners of either:

A. Twenty percent (20%) or more of the area of the lots or land covered by the proposed change;

or

- B. By twenty percent (20%) or more of the area of the lots or land immediately adjoining the area covered by the proposed change and extending two-hundred (200') from such area; such application shall not become effective except by affirmative vote of three fourths (3/4) of the Planning and Zoning Commission and the City Council. In computing the percentage of land area to be considered, the area of streets and alleys shall be included.

- 2.03.10 Action by the City Council: Upon receipt of the report from the Planning & Zoning Commission the City Council shall hold a public hearing for the purpose of consideration the proposed change to the zoning map or text. Not less than fifteen (15) days before the public hearing, notice of the hearing shall be published in an official newspaper or a newspaper of general circulation in the City of Kurten.
- 2.03.11 Implementation of a Zoning Map or Text Amendment: Upon approval by the City Council, a zoning map or text amendment does not become operative until thirty (30) days after the date that the application for the map or text change was initially filed.
- 2.03.12 Approval and Execution of Changes: If finally approved by the required number of votes of the City Council, the Mayor shall execute the ordinance.
- 2.03.13 Expiration of an Application: Any pending application shall be automatically approved if no action of any kind has been taken on it by the City Council for a period of one year.

Section 2.04 Conditional Use Permit Criteria and Procedures

- 2.04.01 Purpose: The purpose of the Conditional Use Permit process is to identify those land uses which may be appropriate within a zoning district but due to either their location, function, or operation, could have a potentially harmful impact on adjacent properties or the surrounding area; and to provide for a procedure whereby such uses may be permitted by further restricting or conditioning them so as to mitigate or eliminate such adverse impacts.
- 2.04.02 Authorization of Planning and Zoning Commission: The Planning and Zoning Commission shall make a report to the City Council which shall recommend approval or denial of a Conditional Use Permit for a use in any district in which such use is authorized under this Ordinance, following proper application, and after notice to affected landowners and public hearing, in accordance with the procedures and criteria herein established.
- 2.04.03 Issuance Limitations and Forms Required: No Certificate of Occupancy or Land Use Permit for a purpose authorized only as a conditional use within a zoning district shall be issued unless the applicant obtains a Conditional Use Permit from the City Council. The application for a Conditional Use Permit shall be submitted on a form provided by the Zoning Officer and accompanied by a site plan in a form acceptable to the Zoning Officer.

The Planning and Zoning Commission may require additional information or plans as necessary and appropriate for review.

- 2.04.04 Procedures: The procedures associated with the review and approval or denial of a Conditional Use Permit shall be the same as those associated with a zoning map amendment, as described in Section 2.03, above.
- 2.04.05 Criteria for Approval: The Planning and Zoning Commission shall recommend denial of a conditional use permit if it finds that the proposed use:
- A. Does not conform with applicable regulations and standards established by this Ordinance;
 - B. Is not compatible with existing or permitted uses on abutting sites, in terms of use, building height, bulk and scale, setbacks and open spaces, landscaping, drainage, or access and circulation features;
 - C. Potentially creates greater unfavorable effects or impacts on other existing or permitted uses on abutting sites than those which reasonably may result from the use of the site by a use permitted by right;
 - D. Adversely affects the safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses reasonably anticipated in the area considering existing zoning and land uses in the area;
 - E. Fails to reasonably protect persons and property from erosion, flood or water damage, fire, noise, glare, odors, and similar hazards or impacts;
 - F. Adversely affects traffic control or adjacent properties by inappropriate location, lighting, or types of signs;
 - G. Fails to provide adequate and convenient off-street parking and loading facilities;
 - H. Fails to conform to the objectives and the purpose of the zoning district in which the development is located, and the goals, objectives, and policies, contained in the City's long-range comprehensive planning activities;
 - I. Will be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity, for reasons specifically articulated by the Commission;
 - J. Has a deleterious impact on property values in the immediate area of the proposed site;
- or
- K. The premises or structure(s) are not suitable for the proposed conditional use.
- 2.04.06 Site Plans: Site plans may be required by the Planning and Zoning Commission as a part of the Conditional Use Permit review process. Conditional use site plans considered by the Planning and Zoning Commission shall be approved only after the

Planning and Zoning Commission finds that the proposed development, if completed as proposed, will comply with all applicable provisions of this Ordinance and all conditions deemed necessary.

- 2.04.07 Authorization to Establish Conditions: The Planning and Zoning Commission may recommend, and the City Council may establish such conditions of approval as are necessary to assure that the proposed land use meets the criteria set forth in this Ordinance which may include without limitation requirements for special yards, lot sizes, open spaces, buffers, fences, walls or screening; requirements for installation and maintenance of landscaping or erosion control measures; requirements for street improvements, regulation of vehicular ingress and egress, and traffic circulation; regulation of signs; regulation of hours or other characteristics of operation; establishment of development schedules or time limits for performance or completion; and such other reasonable conditions as the City Council may deem necessary to insure compatibility with surrounding uses and to preserve the public health, safety, and welfare.

- 2.04.08 Agreement to Abide by Conditions Prior to Issuance: No Conditional Use Permit shall be granted unless the applicant, owner or grantee of the Conditional Use Permit accepts and agrees to be bound by and comply with the written requirements of the Conditional Use Permit, as attached to the site plan drawing (or drawings) and approved by the City Council. The Zoning Officer shall maintain a record of all Conditional Use Permits granted by the City.

- 2.04.09 Validity of a Conditional Use Permit: A Conditional Use Permit shall remain valid until such time as one of the following occurs:
 - A. The property is rezoned;
 - B. Another Conditional Use Permit is approved for the site;
 - or
 - C. The use of the premises changes and such a change is authorized by the issuance of a new Certificate of Occupancy

- 2.04.10 Non-Substantial Changes: No building, premise, or land used under a Conditional Use Permit may be substantially changed unless a new Conditional Use Permit is granted for the change. In the event a change is determined by both the Mayor and the Zoning Officer to be non-substantial, the Mayor may approve the change. The Zoning Officer shall maintain a record of all such determinations and shall appraise the Planning and Zoning Commission of such determinations.

Section 2.05 New and Unlisted Land Uses

- 2.05.01 Procedure to Facilitate Land Use Classification: It is recognized that new types of land use will develop and that forms of land use not presently anticipated may seek to locate in the City of Kurten. New or unlisted forms of land use shall not include those land uses that can reasonably be interpreted as being similar to permitted or conditional uses already listed in the district regulations for the district in which the new use is to

be located, or in the Land Use Regulation Matrix found at the end of Article 3, of this Ordinance. In order to provide for such changes and contingencies where new or unlisted land uses are not specified as a permitted use or a conditional use in any zoning district, a determination as to the appropriate classification of any new or unlisted form of land use shall be made in accordance with the terms of this section of the Ordinance.

- 2.05.02 Classification Rulings - Board of Adjustment: The Zoning Officer shall refer questions concerning any new or unlisted use to the Board of Adjustment requesting an interpretation as to the zoning district into which such use should be placed. The referral shall be accompanied by a statement of facts listing the nature of the use and whether it involves dwellings, sales, processing, type of product, storage, anticipated employment, transportation system requirements, the general requirements for public utilities such as water and sanitary sewer, and other information deemed necessary to assist the Board of Adjustment in its deliberations.
- 2.05.03 Board of Adjustment to Make Determination: The Board Adjustment shall hold a public hearing for the purpose of considering the nature and characteristics of the proposed use and its compatibility with the uses permitted in the various districts, and shall determine the zoning district or districts within which such use is most similar and should be permitted.
- 2.05.04 Incorporation of Rulings into the Zoning Text: Written records of the rulings of the Board of Adjustment pertaining to land use classification shall be maintained by the Zoning Officer. The Zoning Officer shall regularly update the provisions of the Zoning Ordinance text by incorporating said rulings into the written text. Such written rulings shall be documented in the Annual Report of the Board of Adjustment.

Section 2.06 Nonconformance

- 2.06.01 Purpose: Within the districts established by this Ordinance or amendments thereto, there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this Ordinance was enacted, amended or otherwise made applicable to such lots, structures or uses, but which do not conform to the regulations of the district in which they are located. It is the intent of this section of the Ordinance to permit such nonconformance to continue, under regulations herein contained, until the same are removed, but not to encourage their survival.
- 2.06.02 Nonconformance Incompatible: Nonconforming uses are hereby declared to be incompatible with the permitted uses in the districts involved.
- 2.06.03 Expansion or Enlargement Limited: The expansion or enlargement of a legal nonconforming land use shall be limited to the extent of the original, legally described parcel of property that the nonconforming land use was located on when this Ordinance was adopted.
- 2.06.04 Nonconformance Status: Any use or structure which does not conform to the regulations contained in the zoning district in which it is located is deemed to be a legal nonconforming use when:

- A. The use or structure was in existence and lawfully operating at the time of the passage of this Ordinance, and has since been in regular and continuous use;

or

- B. the use or structure was lawfully being used at the time of the adoption of any amendment to this ordinance and by such amendment was placed in a district where it is not otherwise permitted;

or

- C. the use or structure was in existence at the time of annexation to the City of Kurten and has since been in regular and continuous use.

2.06.05 Continuing Lawful Use of Property:

- A. The lawful use of land existing at the time of the passage of this Ordinance, although it does not conform to the provisions herein, may be continued until termination is required in accordance with the provisions of this Article. During the period between designation as a nonconforming land use activity and notification of a prescribed termination date, if discontinuance occurs, any future use of the premises must be in conformity with the general provisions of this Ordinance.
- B. A legal nonconforming use, when discontinued or abandoned, cannot be resumed. Prima facie evidence of continuance or abandonment is as follows:
 - 1. When land associated with a legal nonconforming use ceases to be used in such a manner for a period of one (1) year.
 - 2. When a structure associated with a nonconforming use ceases to be used in such a manner for a period of one (1) year.
- C. Abandonment of a nonconforming use shall be determined by the Board of Adjustment and may include a consideration of the following factors in addition to the prima facie evidence of Abandonment cited in subsection 2, above:
 - 1. The intent of the user or owner;

or

 - 2. The apparent act of discontinuance as supported by evidence submitted to the Board of Adjustment.

2.06.06 Development of Nonconforming Lots: Nonconforming lots which do not meet the minimum area, width, or depth requirements for the district in which they are located may be used for any lawful purpose permitted within the zoning district in which they are located. However, the use of such a lot shall be subject to a determination by the Zoning Officer that a good faith effort has been made to follow all rules and regulations associated with this Ordinance.

- 2.06.07 Proof of Legal Nonconformance: It shall be the responsibility of the owner, operator, or occupant to provide proof that a nonconforming structure or use of land or building existed prior to the enactment of this Ordinance.
- 2.06.08 Restoration of Damaged Property: Nothing in this Article shall prevent the restoration of a building destroyed by fire, explosion, or other casualty or act of God, or a public enemy, nor the continued occupancy or use of such a building or part which existed at the time of such destruction.
- 2.06.09 Substitution of Nonconforming Uses or Structures Prohibited: No nonconforming use or structure may be substituted for any other nonconforming use or structure. Only uses permitted by right and approved conditional uses may be substituted for nonconforming uses or structures.
- 2.06.10 Survey and Certification: The Zoning Officer is responsible for the production of an annual survey and report on the status of zoning nonconformance in Kurten. The Officer's report shall be sent to the Planning and Zoning Commission at its first regular meeting of the official municipal year. The Officer's report shall become a part of the Planning Commission's Annual Report. The Commission shall review the report and shall approve or reject the certification of each site that the Officer has identified as being nonconforming. Once certified by the Commission as nonconforming, a site shall be given an alphanumeric designation for future reference. Upon receipt of the approved certified report from the Commission, the Officer shall notify each tenant and property owner of such nonconforming status.
- 2.06.11 Termination of Nonconformance: The right to use a parcel of land or a structure in a nonconforming manner shall terminate under any of the following circumstances:
- A. When the use is abandoned.
 - B. When any provision of this or any other ordinance of the City of Kurten is violated.
 - C. When a nonconforming use is changed to a conforming use by means of an amendment to the zoning text or map.

Section 2.07 Zoning of Annexed Areas

- 2.07.01 Plan Required Prior to Annexation: It shall be the responsibility of the Planning and Zoning Commission to prepare a land use and zoning plan for any area to be annexed by the City of Kurten. The City Council shall review, modify if necessary, and adopt said plan. After annexation, said area shall be zoned in accordance with the aforementioned plan and the land use plan for the annexed area shall become an integral component of the City's comprehensive city planning activities.

Section 2.08 Official Zoning Map

- 2.08.01 Official Zoning Map Established: The boundaries of the zoning districts established within the City of Kurten shall be drawn on an Official Zoning Map, adopted as part of this Ordinance, and incorporated as a part of this Ordinance by this reference thereto.
- 2.08.02 Location of the Official Zoning Map: One original of the Official Zoning Map shall be filed in the office of the City and labeled as the Official Zoning Map of the City of Kurten, Texas. This copy shall be the Official Zoning Map and shall bear the signature of the Mayor and attestation of the City Secretary. This map shall not be changed in any manner except by Ordinance. In case of any questions regarding boundary interpretation or land use classification, this map, together with any amending ordinances, shall be controlling.
- 2.08.03 Mayor to Retain Copy: A copy of the original Official Zoning Map shall be placed in the office of the Mayor. Said copy shall be used for reference and shall be maintained up-to-date by posting thereon all subsequent amendments. Reproductions of the Official Zoning Map may be made for informational purposes.

Section 2.09 Zoning Ordinance Text and Map Interpretation

- 2.09.01 Primary Interpretation - Zoning Officer: The Zoning Officer shall be the individual primarily responsible for the interpretation of the text of this Ordinance and the Official Zoning Map. If the Zoning Officer determines that the meaning of a word or a provision is unclear, or that the application of same to a particular circumstance is uncertain, then the Zoning Officer shall provide a written statement of interpretation, specifying the reasons supporting the interpretation. Unless an interpretation is revised by the Board of Adjustment, or modified by amendment to this Ordinance, the interpretation of the Zoning Officer shall be presumed to be correct.
- 2.09.02 Ultimate Interpretations - Board of Adjustment: An interpretation by the Zoning Officer may be appealed to the Board of Adjustment in accordance with the provisions set forth in this Ordinance. The Zoning Officer may request an interpretive ruling from the Board of Adjustment by placing the request on the appropriate agenda of the Board.
- 2.09.03 Official Zoning Map Interpretation: The zoning district boundary lines shown on the Zoning District Map usually follow streets, alleys, property lines, or extensions thereof. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:
- A. Boundaries approximating the centerline of streets, highways, or alleys shall be construed to follow such centerline.
 - B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
 - C. Boundaries indicated as approximately following city limits shall be construed as following city limits.

- D. Boundaries indicated as following railroad lines shall be construed to be midway between the right-of-way lines.
- E. Boundaries indicated as parallel to or extensions of features indicated in subsections A through D above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- F. Whenever any street, alley, or other public way is vacated by official action of the City Council or whenever such area is franchised for building purposes, the zoning district line adjoining each side of such street, alley, or other public way shall be automatically extended to the center line of such vacated street, alley, or way and all areas so involved shall then and henceforth be subject to all regulations of the extended districts.
- G. The zoning classification applied to a tract of land adjacent to a street shall extend to the center line of the street unless as a condition of zoning approval it is stated that the zoning classification shall not apply to the street.
- H. Permanent zoning changes made after the date of passage of this Ordinance shall be indicated in approximate locations on the Official Zoning Map. Individuals seeking exact legal descriptions shall be referred to the adopting ordinance amendment for each particular permanent zoning change.

Section 2.10 Annual Recodification Requirement

- 2.10.01 Planning and Zoning Commission Responsible for Recodification: It shall be the responsibility of the Planning and Zoning Commission to annually update the Zoning Ordinance. At the end of each fiscal year the Planning and Zoning Commission shall collect all zoning text changes that have occurred in the previous twelve (12) months. The date of the most recent recodification shall be identified on each copy of the Zoning Ordinance.
- 2.10.02 Ordinance Format: This Ordinance shall be maintained and updated in a three-ring binder format.

Section 2.11 Fees

- 2.11.01 Fees Schedule: Fees for zoning amendments, conditional use permits, and any other permits or review procedures associated with this Ordinance shall be established by the Planning and Zoning Commission and shall be adopted for the year by the City Council. Proposals for changes in fee structures shall be submitted to the City Council as a part of the Commission's Annual Report. The City Council shall review the fee schedule at the beginning of each fiscal year and shall alter the schedule as it deems necessary and appropriate. The fee schedule for any given year shall be published and made readily available to citizens.

Current Fees: Current fees for the City of Kurten are as follows:

Land Use Permit	\$50.00
Certificate of Occupancy	No Charge
Zoning Map Amendment	\$500.00
Zoning Ordinance Text Amendment	\$500.00
Conditional Use Permit	\$500.00
Variance	\$500.00
Zoning Map or Text Interpretation	\$500.00
Special Events Permit	\$500.00

2.11.02 Waiver of Fees: The City Council, upon a vote of the majority of members present, may waive the fee for an amendment, conditional use permit, or any other permit or review procedure associated with this Ordinance. However, fees may be waived only in the case of extreme hardship on the applicant or in cases where a submission of a zoning action is required by the Planning and Zoning Commission or the Board of Adjustment.

2.11.03 Attributable Fees: All fees attributable to non-staff consultants such as a City Attorney, City Engineer, Contract Inspector, and other similar contract personnel shall be payable by the applicant. Failure to pay such fees shall suspend or nullify the review or approval of an application until such fees are paid in full.



ARTICLE 3

Zoning Districts

- 3.01 R Residential
- 3.02 MH Manufactured Housing
- 3.03 CC Community Center
- 3.04 AU Adult Use
- 3.05 Zoning District Matrix
- 3.05 Lot Standards Matrix

NOTE 1: Land Use activities not specifically listed in the “Zoning District Land Use Matrix” (section 3.05), are not allowed in the City of Kurten. (Reference 2.05.01)

NOTE 2: An Industrial Zone is excluded from the City of Kurten.

Section 3.01 R - Residential District

Description: This district is primarily intended for single-family detached residential dwellings and related religious, educational, and recreational facilities normally required to provide the basic elements of a balanced and attractive community. These areas should be separated and protected from the encroachment of land use activities that do not perform a function necessary to sustain the residential environment, internal stability, attractiveness, order, efficiency, and security. The maintenance of property values is encouraged through the provision of adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationship of various land use elements. The regulatory provisions of this district are aimed at achieving the goals, objectives and policies of the City of Kurten long-range planning program.

3.01.01 Uses Permitted by Right and Conditional Uses: Please see Section 3.05 - Zoning District Matrix, at the end of this section of the Ordinance.

3.01.02 Area Regulations: Please see Section 3.06 – Lot Standards Matrix in this section of the Ordinance

Section 3.02 MH - Manufactured Housing District

Description: This district is intended to serve as a residential zone that will meet the needs of persons living in manufactured housing. The primary use of land in the MH District is for manufactured homes, other related religious, educational, and recreational facilities normally required for the provision of a balanced and attractive neighborhood. These areas should be protected from the encroachment of land use activities that do not perform a function necessary to sustain the residential environment, internal stability, attractiveness, order, efficiency, and security. The maintenance of property values is encouraged through the provision of adequate

light, air and open space for dwellings and related facilities and through consideration of the proper functional relationship of various land use elements. The regulatory provisions of this district are aimed at achieving the goals, objectives and policies of Kurten long-range planning program.

3.02.01 Uses Permitted by Right and Conditional Uses: Please see Section 3.05 - Zoning District Matrix, at the end of this section of the Ordinance.

3.02.02 Area Regulations: Please see Section 3.06 – Lot Standards Matrix in this section of the Ordinance

3.02.03 In-Migration of Additional Mobile Homes Prohibited: On and after the effective date of the adoption of this Ordinance no additional “mobile homes” will be permitted to locate within the City of Kurten.

3.02.04 Location of Manufactured Homes: Except as provided below, manufactured homes shall be permitted to locate only in MH Manufactured Home zoning districts.

3.02.05 Existing Mobile Homes and Manufactured Homes: “Mobile homes” or manufactured homes that are located within the City of Kurten on the day that this Ordinance becomes effective and that are not located in an MH Manufactured Home zoning district shall become legal nonconforming land uses. Such homes shall be permitted to remain within the City subject to the following:

- A. A manufactured home located outside of an MH zoning district may be relocated within the City only into an MH zoning district or another location authorized by a provision of this zoning ordinance.
- B. A mobile or manufactured home located outside of an MH zoning district destroyed by fire, storm, or act of God may be replaced with a manufactured home.
- C. The owner of a manufactured home may remove such manufactured home from its location and place another manufactured home on the same property provided that the replacement is a newer manufactured home and is at least as large in living space as the manufactured home which it is replacing. A mobile home may not be expanded or replaced with another mobile home. A mobile home may be replaced with a manufactured home. No pre-existing mobile home may be relocated from one site to another within the City. In order for a manufactured home to “replace” another manufactured home or a mobile home, the replacement manufactured home must be put into place within 90 days after the pre-existing manufactured home or mobile home is removed.

Section 3.03 CC – Community Center District

Description: The CC – Community Center District is designed to accommodate retail activities and offices located in Kurten. The regulatory provisions of this district are aimed at achieving the goals, objectives of the City of Kurten long-range planning program.

3.03.01 Uses Permitted by Right and Conditional Uses: Please see Section 3.05 - Zoning District Matrix, at the end of this section of the Ordinance.

3.03.02 Area Regulations: Please see Section 3.06 – Lot Standards Matrix in this section of the Ordinance

3.03.02 Buffering and Screening: Any property developed in this zoning district which adjoins or abuts any R or MH Zoning District shall provide a fifteen foot (15') wide buffer yard along the entire perimeter of such property. Any property developed in this zoning district which adjoins or abuts any R or MH Zoning District shall be screened along the entire perimeter of such lot or zoning district by a solid, opaque fence or dense landscaping, created and maintained in accordance with specifications which shall be provided by the Kurten Zoning Officer.

3.03.03 Site Plan Required: The owners of all business or commercial land use activities locating in a CC – Community Center District shall be required to submit a site plan to the Planning and Zoning Commission for review and approval. No land use permit or certificate of occupancy shall be issued for a business or commercial land use activity locating in a CC zone until such site plan has been approved by the Planning and Zoning Commission.

Section 3:04 AU – Adult Uses District

Description: A number of findings from cities in Texas and other states (Michigan, Washington, and Virginia, among others) indicate that the concentration of certain sexually oriented business or so-called “adult entertainment” tends to result in the blighting and deterioration of areas of such concentration. Accordingly, it is necessary that these businesses be regulated so that they have the least negative impact on residential neighborhoods, educational institutions, religious institutions, and the public. The regulatory provisions of this district are aimed at achieving the goals, objectives, and policies of the City of Kurten’s long-range planning program.

3.04.01 Uses Permitted by Right and Conditional Uses: Please see Section 3.05 - Zoning District Matrix, at the end of this section of the Ordinance.

3.04.02 Area Regulations: Please see Section 3.06 – Lot Standards Matrix in this section of the Ordinance

3.04.03 Distance Requirement: No AU – Adult Use District shall be established and located any closer than one-thousand (1,000) feet from any residence, public school, public building, church, or other adult use.

3.04.04 Buffering and Screening: Any property developed in this zoning district which adjoins or abuts any residential property shall provide a fifteen foot (15') wide buffer yard along the entire perimeter of such residential property. Any property developed in this zoning district which adjoins or abuts any residential property shall be screened along the entire perimeter of such lot or zoning district by a solid, opaque fence or dense landscaping, created and maintained in accordance with specifications provided by the Kurten Zoning Officer.



LOT STANDARDS

Zoning Districts	Minimum Lot Area	Minimum Lot Width	Minimum Lot Depth	Maximum Dwelling Units Per Acre/Lot	Minimum Front Yard	Minimum Rear Yard	Minimum Side Yard	Maximum Lot Coverage	Maximum Height of Structures
R Residential	3 Acres 130,680 sq. feet	200 feet	200 feet	1 per lot	50 feet	50 feet	50 feet	30%	60 feet
MH Manufactured Homes	1 Acre 43,560 sq. feet	100 feet	100 feet	1	30 feet	30 feet	30 feet	30%	45 feet
CC Community Center	None	None	None	Not Applicable	None	None	None	None	4 stories
AU Adult Use	1 Acre 43,560 sq. feet	100 feet	100 feet	1	50 feet	50 feet	50 feet	30%	45 feet

ZONING DISTRICT LAND USE MATRIX

X = Use permitted by right C= Conditional use permit required

	Residential	Manufactured Housing	Community Center	Adult Use
Land Use Activity	R	MH	CC	AU
Accessory buildings	X	X	X	X
Adult use				X
Agricultural activities	X	C		
Alcoholic beverage stores			X	
Bakeries			X	
Barber and beauty shops			X	
Bars			X	
Cemeteries	C			

ZONING DISTRICT LAND USE MATRIX

X = Use permitted by right C= Conditional use permit required

	Residential	Manufactured Housing	Community Center	Adult Use
Land Use Activity	R	MH	CC	AU
Child care facilities	C	C	X	
Churches and places of worship	C	C	X	
Civic organizations	C	C	X	
Financial institutions			X	
Fraternal organizations	C	C	X	
Funeral homes			X	
Gas stations			X	
Golf course and/or country club	C	C		

ZONING DISTRICT LAND USE MATRIX

X = Use permitted by right C= Conditional use permit required

	Residential	Manufactured Housing	Community Center	Adult Use
Land Use Activity	R	MH	CC	AU
Group home			C	
Home occupations	X	X	X	
Hospital or medical clinic			X	
Machinery sales and repairs			X	
Manufacture home		X		
Municipal, county & state land uses	X	X	X	X
Museums			X	
Offices			X	

ZONING DISTRICT LAND USE MATRIX

X = Use permitted by right C= Conditional use permit required

	Residential	Manufactured Housing	Community Center	Adult Use
Land Use Activity	R	MH	CC	AU
Pharmacies			X	
Plant nurseries (commercial)	C		X	
Pool halls			X	
Residential homes	X	X	X	
Restaurants			X	
Retail sales and services			X	
Special Events			X	
Stables	C			

ZONING DISTRICT LAND USE MATRIX

X = Use permitted by right C= Conditional use permit required

Land Use Activity	Residential	Manufactured Housing	Community Center	Adult Use
	R	MH	CC	AU
Storage facilities (commercial)			C	
Theaters			X	
Veterinarians			X	
Warehouses			C	
Wholesale sales			C	

ARTICLE 4

Special Use Regulations

Section 4.01 Purpose and Description

4.01.01 This article establishes regulations for certain land uses which are permitted in a given district, yet require additional regulations to ensure complete compatibility with surrounding land uses.

Section 4.02 Home Occupations

4.02.01 Location: Please see Section 3.05 - Zoning District Land Use Matrix, at the end of Article 3 of this Ordinance.

4.02.02 No External Activities Permitted: All activities and storage associated with a home occupation shall be located within the associated residence.

4.02.03 Employment of Persons Outside of the Immediate Family: Employment shall be limited to one (1) person who is not a member of the immediate family residing on the premises.

4.02.04 Parking Requirements: Parking shall be in accordance with Article 6, of this Ordinance.

4.02.05 Signs: One (1) on-premise sign not exceeding two (2) square feet in area shall be permitted.

4.02.06 Visual Compatibility: No structural alterations shall be permitted that will cause the home occupation to be substantially distinguishable from other surrounding residential properties.

4.02.07 Performance Criteria: All home occupations shall meet the performance criteria established in Article 6, of this Ordinance.

4.02.08 No Commercial Vehicles Permitted: No commercial vehicles shall be permitted for delivery and pick-up services associated with a home occupation.

4.02.09 Land Uses Not Qualifying as Home Occupations: The following land use activities shall not be qualified as home occupations:

- A. Auto repair
- B. Furniture upholstery, paint and finish stripping, and repair
- C. Welding services

Section 4.03 Child Care Facilities

4.03.01 Location: Please see Section 3.05- Zoning District Matrix, at the end of Article 4 of this Ordinance.

- 4.03.02 Distance Requirement: In any residential district, a child care facility shall be located not less than one-thousand (1,000) lineal feet from any other child care facility as measured from the nearest property boundary of the sites on which they are located.
- 4.03.03 Parking Requirements: Parking shall be in accordance with Article 6, of this Ordinance.
- 4.03.04 Signs: One (1) on premise sign not exceeding two (2) square feet in area shall be permitted.
- 4.03.05 Visual Compatibility: Within any residential district, no structural alterations shall be permitted that will cause the child care facility to be substantially distinguishable from other surrounding residential properties.
- 4.03.06 Statutory Licensing Requirements: All child care facilities shall meet every State statutory licensing requirement.
- 4.03.07 Annual Permit Required: All child care facilities located in residential districts shall obtain an annual Child Care Facility Permit from the City of Kurten. Complaints from surrounding property owners during the course of any year shall be recorded and shall be reviewed by the Planning and Zoning Commission prior to the re-issuance of any operating permit. Decisions of the Planning and Zoning Commission to renew or not to renew a child care facility operating permit shall be appealed to the City Council.
- 4.03.08 Performance Criteria: All child care facilities shall meet the performance criteria established in Article 6, of this Ordinance.
- 4.03.09 Screening Required in Residential Districts. Lots must be screened from abutting residential properties by an opaque fence, wall, or dense growth of plant materials, not less than five (5) feet high and not more than six (6) feet high. Said screen must be constructed and maintained in good condition at all times.
- 4.03.10 Time of Operation Limits in Residential Districts: All child care facilities located in residential districts shall be limited to operating between the hours of 6:00 AM and 10:00 PM daily.

Section 4.04 Special Events

- 4.04.01 Location: Please see Section 3.05 - Zoning District Land Use Matrix, at the end of Article 3 of this Ordinance.
- 4.04.02 Duration and Time of Operation Limits: No special event may operate for more than seven (7) consecutive days.
- 4.04.03 Zoning Officer to Specify Performance Criteria: The Zoning Officer is authorized to ensure adequate parking, sanitary facilities, safety requirements, and other appropriate performance criteria for special events to protect the public health, safety, and general welfare.

4.04.04 Special Events physically held at the following locations are exempt from obtaining a Special Events Permit: Kurten Community Center, Volunteer Fire Department Kurten Station, Zion Church of Kurten, and Cedar Creek Lodge #300.

Section 4.05 Health and Safety Standards

4.05.01 All State, County, and City Standards Apply: All health and safety standards which have been adopted by the State of Texas, Brazos County, or the City of Kurten shall be met before a building permit or certificate of occupancy may be issued.

Section 4.06 Certain Permanent Residential Occupancy Prohibited

4.06.01 The use of recreational vehicles, buses, vehicles with camper tops, or tents as a permanent residence is prohibited.

Section 4.07 Certain Farming and Agricultural Related Activities Prohibited

4.07.01 It shall be unlawful to operate any commercial animal feedlot, breeding facility, meat packing plant, egg production facility, tannery, or related land use activity within the City of Kurten.

Section 4.08 Maintenance of Wild Animals Prohibited

4.08.01 It shall be unlawful to keep or harbor any wild animal within the City of Kurten.

Section 4.09 Fences

4.09.01 Fences may be located on a property line. However, in no case may a fence or any other structure be located in a street right-of-way.



ARTICLE 5

Performance Standards

Section 5.01 Purpose

The purpose of this Article is to set forth regulations that protect the public from the potential negative effects of certain environmentally deleterious activities. This Article regulates smoke and particulate matter, odors, fire or explosive materials, toxic and noxious matter, vibration, open storage, glare, and fuel supply in the vicinity of such sites. These regulations are aimed specifically at achieving the environmental goals of the City of Kurten.

Section 5.02 Application and Effect

All permitted land uses shall conform in operation, location, and construction to the performance standards as specified in this Article. In addition, such standards or some portion of them may reasonably be appended to certain other Conditional Use Permits as may be determined to require these protective standards.

Section 5.03 Noise

At no point at the boundary property line of any land use shall the sound pressure level of any operation of a facility exceed eighty-five (85) decibels, at one hundred and twenty five (125) cycles. Measurement of noise shall be made with a sound level meter that has a calibration certificate meeting the standards prescribed by the American National Standards Institute.

Section 5.04 Smoke and Particulate Matter

- 5.04.01 State Regulations Control: The emission of particulate matter from all sources in a district subject to this Article shall not exceed the level specified by the Texas Natural Resource Conservation Commission or the regulations specified by the Texas Department of Health.
- 5.04.02 Fugitive Dust-Particulate Control: All land use activities shall be conducted so that dust and other particulate matter are not transported across the boundary property line of the tract on which the land use is located.

Section 5.05 Odors

- 5.05.01 No land use shall be located or operated which involves the emission of odors from a source of operation where the odors exceed the odor threshold at the bounding property line or any point beyond the tract on which such land use is located.
- 5.05.02 The odor threshold shall be determined by observation. The method and procedures specified by American Society for Testing Materials (ASTMD 1391-57 entitled "Standard Method for Measuring Odor in Atmospheres") shall be used in any case where the operator or owner of an odor emitting land use disagrees with the Zoning Enforcement Officer.

Section 5.06 Toxic and Noxious Matter

No commercial or industrial land use permitted under the terms of this Ordinance shall emit toxic or noxious matter in concentrations across the boundary property line of the tract on which such land use is located.

Section 5.07 Vibration

No land use permitted under the terms of this Ordinance shall at any time create earth borne vibration which when measured at the boundary property line of the source operation exceeds the limits of the displacement set forth in Table 5-A, below:

TABLE 5-A

Displacement Limits For Vibration

<u>Frequency Cycles Per Second</u>	<u>Displacement in Inches</u>
0 to 10	.0010
10 to 20	.0007
20 to 30	.0005
30 to 40	.0004
40 and over	.0003

Section 5.08 Glare

No land use shall be conducted so as to produce intense glare or direct illumination across the boundary property line from a visible source of illumination, nor shall any such light be of such intensity as to create a nuisance or detract from the use and enjoyment of adjacent property.

Section 5.09 Storm Water Management

5.09.01 Detention of Excess Stormwater Runoff: Each property owner shall provide for the on-site or off-site detention of excess stormwater runoff. For the purpose of this Article, "excess stormwater runoff" includes all increases in stormwater resulting from an increase in the impervious surface of the site. This shall include all additions of buildings, roads, parking lots; changes in soil absorption caused by compaction, modifications in contours, including the filling or draining of small depressed areas, alteration of drainage ways, or re-grading of slopes; destruction of forest; alteration of drainage ways or installation of collection systems to intercept street flows or to replace swales or other drainage ways; or the alteration of subsurface flows, including any groundwater removal or diversion practices compared with the site in its natural state.

5.09.02 Limitation on Stormwater Runoff: No land use shall cause downstream property owners, water courses, channels, or conduits to receive more stormwater runoff than would result from the same storm event occurring over the site of the proposed land use with the site in its natural, undeveloped condition.

Section 5.10 Water Pollution

No emission of pollutants into a water source from any land use in Kurten shall be permitted to violate the laws of the State of Texas or of the United States.

Section 5.11 Underground Burying of Building Materials or Related Refuse

No building materials or refuse from a structure that has been demolished may be buried underground.



ARTICLE 6

Off-Street Parking, Loading, Ingress and Egress

Section 6.01 Off-Street Parking Requirements

- 6.01.01 Purpose: The Purpose of this section of the Ordinance is to regulate required off-street parking. This section of the Ordinance applies to the CC Community Center zoning district, and any AU Adult Use zoning district.
- 6.01.02 Applicability: These regulations shall be applied in any of the following circumstances:
- A. Any building, improvement, or use of land approved or erected after the effective date of this Ordinance shall include the necessary off-street parking spaces that this section of the Ordinance requires.
 - B. Whenever any building, improvement, or use of land is proposed to be changed (whether or not the existing use is conforming), the provisions of this section of the Ordinance shall be met before such change is approved.
- 6.01.03 Shared Parking: Uses may join in establishing shared parking areas, provided that each of the following qualifications are met:
- A. Up to sixty percent (60%) of the parking spaces required for a cinema or other place of evening entertainment, and up to eighty percent 80% of the parking spaces required for a church, auditorium or similar uses, may be provided by or used jointly with banks, offices, or other similar uses not normally open, used, or operated during evening and weekend hours.
 - B. A written agreement assuring the joint usage of the shared parking spaces shall be drawn and executed by all parties concerned and shall be approved as to form by the City. Attorney's fees shall be paid for by the parties subject to the contract and shall not be paid for by the City of Kurten.
 - C. The Planning and Zoning Commission shall specifically approve the shared parking plan.
 - D. The City Council may rescind such approval and require additional spaces if the City Council finds that such shared parking is inadequate or is resulting in a public nuisance adversely affecting the public health, safety, or welfare.
- 6.01.04 Proximity: An off-street parking lot shall be located within five hundred (500) feet of a pedestrian entrance for its associated land use, exclusive of street and alley widths, and shall have direct access to a street or an alley. It shall be located in a district with the same zoning classification for which it is intended to serve.
- 6.01.05 Off-Street Parking Dimensions: Parking spaces shall be designed and constructed on the basis of the following standards:

- A. Ninety (90) Degree Angle Parking: Each parking space shall be not less than ten (10) feet wide or less than nineteen (19) feet in length. Maneuvering space is additional to the parking space and shall be no less than twenty-four (24) feet perpendicular to the building or parking line.
- B. Forty Five (45) Degree and Sixty (60) Degree Angle Parking: Each parking space shall be not less than nine (9) feet wide or less than nineteen (19) feet in length. Maneuvering space is additional to the parking space and shall be no less than twenty (20) feet perpendicular to the building or parking line.

6.01.06 Parking Area Standards:

A. Surface and Drainage:

All parking areas shall be hard, dust free surfaces built with a minimum of 6" flexible base material after final compaction. The surface must be covered with an asphaltic type surface treatment including prime and tack coat applications. Parking areas may be surfaced with reinforced concrete according to standard engineering guidelines. In addition, all parking areas shall allow for sufficient drainage.

- C. Maintenance: All parking areas shall be continually maintained in a satisfactory condition so as to be safe and attractive and free of any hazard, nuisance, or other unsafe condition.
- D. Lighting: To prevent nuisance situations all parking area lighting shall be designed and operated so as not to reflect or shine intrusively on adjacent properties.
- E. Parking Space Identification Marking: Except for single family and two-family residential uses, parking spaces shall be permanently and clearly identified by stripes, buttons, tiles, curbs, barriers, or other approved methods. Impermanent marking, such as paint, shall be regularly maintained. If any space identification markings become worn or otherwise dysfunctional, it is the responsibility of the property owner to replace or repair the identifiers within thirty (30) days of notification by the Zoning Officer.

6.01.07 Parking Lot Design:

- A. Lighting: All off-street parking areas which are used after dark shall be illuminated. Such illumination shall begin one-half (1/2) hour after sunset, and continue throughout the hours of use or until midnight, whichever is later.
- B. Accessibility: All parking spaces shall be accessible at all times from a street, aisle, or driveway intended to serve such off-street parking.

6.01.08 Requirements for Off-Street Physically Handicapped Parking: Spaces for the handicapped and physically impaired shall be provided in accordance with Federal and State laws.

Section 6.02 Off-Street Loading and Storage Requirements

6.02.01 Purpose: The Purpose of this section of the Ordinance is to require the allocation of sufficient off-street/on-site loading facilities and storage space by business and industry to ensure that the loading and unloading of vehicles will not interfere with traffic flow or block roadways and/or fire lanes.

6.02.02 Application:

- A. All commercial and industrial land uses located within a CC Community Center District shall provide and maintain off-street facilities for the loading and unloading of merchandise and goods within the building or outside the building on the premises.
- B. Where such loading space is adjacent to a residential district, the space shall be enclosed and screened from such district on three (3) sides.
- C. Loading spaces shall have a minimum dimension of twelve (12) feet by thirty (30) feet, and shall not interfere with public right-of-way or emergency vehicle operations.
- D. Off-street loading shall be in accordance with the standards in Table 6-A, below.

TABLE 6-A

Required Off-Street Loading Spaces
for
Commercial, and Industrial Land Uses

Square Feet of Gross <u>Floor Area</u>	Minimum Required <u>Spaces or Berths</u>
0 to 6,000	0
6,001 to 60,000	1
60,001 to 100,000	2
100,001 to 200,000	3
Each additional 100,000	1 additional

6.02.03 Location: All off-street loading spaces shall be located at the side or rear of the building. No loading space may be in a designated fire lane.

6.02.04 Surface and Drainage: All off-street loading spaces or berths shall be hard, dust free surfaces built with a minimum of 6” flexible base material after final compaction. The surface must be covered with an asphaltic type surface treatment including prime and tack coat applications. These parking areas may be surfaced with reinforced concrete according to standard engineering guidelines.

In addition, all parking areas shall allow for sufficient drainage.

6.02.05 Maintenance: All off-street loading areas shall be continually maintained in a satisfactory condition so as to be safe and attractive and free of any hazard, nuisance, or other unsafe condition.

Section 6.03 Ingress and Egress Requirements for Parking Lots

6.03.01 Entrance and Exit Widths:

- A. One Way Entrances and Exits: Drives shall be a minimum of twelve (12) feet wide and no greater than twenty-five (25) feet wide at the property line.
- B. Two Way Entrances and Exits: Drives shall be a minimum of twenty-five (25) feet wide and no greater than forty-five (45) feet wide at the property line.
- C. Curb Return Radii: Curb return radii shall be designed and constructed in accordance with the specifications provided by the Zoning Officer. Said specifications are incorporated as part of this Ordinance by this reference to them.

6.03.02 Public Safety: The Zoning Officer is empowered to regulate the number and location of ingress and egress points on a site in order to ensure public safety.

6.03.03 Relationship to Intersections: The minimum location of entrances and exits to parking lots shall not be less than twenty (20) feet from an intersection so as to minimize traffic interference.

6.03.04 Adjustments: The minimum requirements of this section may be adjusted for Planned Unit Development, Mixed-Use Development or Conditional Uses in order to improve the safety, usability, efficiency, attractiveness, and protection to adjoining land uses in a manner equal to or greater than the specific requirements of this section of the Ordinance. Section.

Section 6.04 Required Parking Spaces

Banks and Financial Institutions	1 space per 400 square feet of gross floor area plus 8 stacking spaces per drive-up
Child Care Facility	1 space per 200 square feet of gross floor area
Churches	1 space per each 4 seats in the main auditorium
Golf Course and/or Country Club	As determined by the Planning & Zoning Commission after review of the proposed site plan
Land Uses Not Identified Here	As determined by the Planning & Zoning Commission after review of the proposed site plan
Professional Offices	1 space per 300 square feet of gross floor area
Restaurants	1 space per 100 square feet of gross floor area

Retail Sales and Services

1 space per 300 square feet of gross floor area

Wholesale Businesses

1 space per 300 square feet of gross floor area



ARTICLE 7

Planning and Zoning Commission

Section 7.01 Planning And Zoning Commission

There is hereby created the Kurten Planning and Zoning Commission. The composition and activities of the Commission shall be in accordance with Chapters 211 and 212, respectively, of the Texas Local Government Code, as amended. The Commission shall be composed of five (5) members, all of whom shall be residents of Kurten, nominated by the Mayor and confirmed by the Board of Aldermen. Each appointed member of the Commission shall hold that office for a period of three (3) years or until his/her successor takes office. However, during the initial creation of the Commission, three (3) members shall be appointed for three (3) years; one (1) member for two (2) years; and one (1) member for one (1) year. The members of the Commission shall be appointed solely with reference to their fitness and without reference to party affiliation, and shall serve without compensation. Members may be removed by the Board of Aldermen only for inefficiency, neglect of duty, or malfeasance in office. Vacancies occurring other than through the expiration of terms shall be filled only for the unexpired term by the Mayor with confirmation by the Board of Aldermen.

Section 7.02 Commission Officers

The Planning and Zoning Commission shall elect a chairperson and an associate chairperson and may create and fill other offices as may be deemed necessary. The term of the chairperson and associate chairperson shall be for one (1) year with eligibility for reelection.

Section 7.03 Meetings of the Commission

The Planning and Zoning Commission shall hold at least one (1) regular meeting every three (3) months. Said meeting shall be open to the public.

Section 7.04 Rules of Operation and Records

Rules of Operation and Records The Commission shall adopt rules of operation and shall keep a record of its resolutions, transactions, findings and determinations, which shall become items of public record.

Section 7.05 Commission Quorum

Four (4) members of the Planning and Zoning Commission shall constitute a quorum for the transaction of business.

Section 7.06 Responsibilities of the Planning and Zoning Commission

7.06.01 The Comprehensive Plan: The Planning and Zoning Commission shall have the responsibility for the preparation and maintenance of the City's comprehensive plan. As a part of its Annual Report, the Commission shall include an overview of the status of the comprehensive plan and the measures that have been taken during the preceding year to implement the plan. Such an overview shall include, but shall not be limited to the subjects of land use, circulation, public facilities and infrastructure, housing, and public policies.

7.06.02 Zoning: The Planning and Zoning Commission shall serve in an advisory capacity on matters concerning amendments to the Kurten Zoning Ordinance text or map.

7.06.03 Land Subdivision and Platting: The Commission shall be responsible for the City's review, and approval or rejection of subdivision plats.

Section 7.07 Financial Support of the Commission

As a part of the City's regular budgetary process the Board of Aldermen shall provide funds for the necessary and appropriate expenses of the Planning and Zoning Commission. A public accounting of the Commission's expenditures for the preceding year shall be provided in the Commission's Annual Report. The Commission may recommend to the Board of Aldermen the employment of professionals such as engineers, architects, landscape architects, urban planners, and other individuals to assist in the performance of the Planning and Zoning Commission's duties.

Section 7.08 Annual Report Required

On or before the first day of September of each year, the Planning and Zoning Commission shall produce and disseminate to the Board of Aldermen and the citizens of Kurten, a report on the activities of the Commission during the past year. Said report shall include, but shall not be limited to the following:

- (1) The status of the City's comprehensive plan, including activities directly related to the implementation of the plan.
- (2) The number, nature, location, and record of approvals/denials of requests for amendments to the zoning ordinance text and map.

- (3) The number, nature, location, and record of approvals/denials of requests for conditional use permits.
- (4) The number, nature, location, and record of approvals/denials of requests for subdivision plats.



ARTICLE 8

Board of Adjustment

Section 8.01 Board of Adjustment

There is hereby created a Kurten Board of Adjustment. The Board of Adjustment shall act in a quasi-judicial capacity. The composition and activities of the Board shall be in accordance with Chapter 211, of the Texas Local Government Code, as amended. The Board shall be composed of five (5) regular members, and two (2) alternate members, all of whom shall be residents of Kurten, nominated by the Mayor and confirmed by the Board of Aldermen. Alternate members shall serve in the absence of regular Board members. Each appointed member of the Board shall hold that office for a period of two (2) years or until his/her successor takes office. The members of the Board shall be appointed solely with reference to their fitness and without reference to party affiliation, and shall serve without compensation. Members may be removed by the Board of Aldermen only for inefficiency, neglect of duty, or malfeasance in office. Vacancies occurring other than through the expiration of terms shall be filled only for the unexpired term by the Mayor with confirmation by the Board of Aldermen.

Section 8.02 Board Officers

The Board of Adjustment shall elect a chairperson and an associate chairperson and may create and fill other offices as may be deemed necessary. The term of the chairperson and associate chairperson shall be for one (1) year with eligibility for re-election.

Section 8.03 Meetings of the Board

The Board of Adjustment shall hold meetings as necessitated by requests for rulings on ordinance interpretation and variances. Said meeting shall be open to the public.

Section 8.04 Rules of Operation and Records

The Board shall adopt rules of operation and shall keep a record of its resolutions, transactions, findings and determinations, which shall become items of public record.

Section 8.05 Right to Appeal

Any person may appeal to the Board of Adjustment a decision made by the Zoning Officer.

Section 8.06 Board Quorum

Four (4) members of the Board of Adjustment shall be required for the transaction of business.

Section 8.07 Responsibilities of the Board of Adjustment:

8.07.01 Interpretation: The Board of Adjustment may hear an appeal that alleges error in an order or decision of the Kurten Zoning Officer pertaining to the City's Zoning Ordinance text or map.

8.07.01 Variances: The Board shall be authorized to grant variances from the terms of the City's Zoning Ordinance if the variance is not contrary to the public interest and, due to special conditions which are not self-imposed, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done.

Section 8.08 Decisions of the Board

In exercising its authority the board may reverse or affirm, in whole or in part, or modify the Zoning Officer's decision pertaining to the Zoning Ordinance. A concurring vote of four (4) members of the board shall be necessary to:

- (1) reverse an order, requirement, decision, or determination of the Zoning Officer;
- (2) decide in favor or an applicant on a matter on which the board is required to pass under the Zoning Ordinance; or
- (3) authorize a variance.

Section 8.09 Financial Support of the Board:

As a part of the City's regular budgetary process the Board of Aldermen shall provide funds for the necessary and appropriate expenses of the Board of Adjustment. A public accounting of the Board's expenditures for the preceding year shall be provided in the Board's Annual Report. The Board may recommend to the Board of Aldermen the employment of professionals such as engineers, architects, landscape architects, urban planners, and other individuals to assist in the performance of the Board of Adjustment's duties. Section

Section 8.10 Annual Report Required

On or before the first day of September of each year, the Board of Adjustment shall produce and disseminate to the Board of Aldermen and the citizens of Kurten, a report on the activities of the Board during the past year. Said report shall include, but shall not be limited to the following:

- (1) the number, nature, location, and record of approvals/denials of requests for zoning ordinance text and map interpretations;
- (2) the number, nature, location, and record of approvals/denials of requests for variances.

Section 8.11 Use Variances Prohibited

It shall be unlawful for the Board of Adjustment to accept or act on a request for a variance that would allow a land use activity in a zoning district where it is specifically excluded by the terms of the Zoning Ordinance.



ARTICLE 9

Enforcement Section

Section 9.01 Compliance Required

9.01.01 Application: No person shall use, occupy, or develop any land, building or other structure, or authorize or permit such use, occupancy or development, except in accordance with all of the applicable provisions of this Ordinance.

9.01.02 Violations Deemed Punishable: The owner of any building, structure, or land, or part thereof, and any architect, builder, contractor, agent or other person employed in connection therewith, who violates, or assists in or contributes to the commission of a violation of this Ordinance shall be deemed guilty of such violation and shall become liable for the penalties herein established.

Section 9.02 Notice of Intent to Revoke or Suspend a Permit, Certificate, License, or Order

Before suspension or revocation of any permit or authorization pursuant to this Article, the Zoning Officer, or designee, shall give notice of the intent to suspend or revoke said permit or authorization, which notice shall specify a reasonable time for compliance with this Ordinance. After the notice of intent is given, suspension or revocation may not occur before the time for compliance has expired.

Section 9.03 Revocation or Suspension of a Permit, Certificate, License, or Order

9.03.01 Suspension or Revocation Authorized: When it has been determined that a permit, certificate, license, or order, pertaining to this Ordinance has been issued in error or on the basis of incorrect information, or that there has been non-compliance with the provisions of this Ordinance, the Zoning Officer may suspend the permit, certificate, license, or order, pending compliance with this Ordinance. The Zoning Officer or designee may revoke a permit if compliance has not been achieved within a reasonable period of time. The provisions of this section of the Ordinance shall apply to:

- A. Certificates of occupancy;
- B. Conditional use permits;
- C. Home Occupation Permits;
- D. Variances.

9.03.02 Notice: Notice of suspension or revocation of any of the above shall be sent to the permit holder by certified mail, return receipt requested.

9.03.03 Immediate Revocation Authorized: A permit or certificate of occupancy may be immediately revoked by the Zoning Officer or designee when and if additional non-compliance with this Ordinance occurs after the permit has been suspended.

Section 9.04 Cease and Desist Orders

9.04.01 Noncompliance in Development or Construction: When the City determines that there has been noncompliance with any material term, condition, or requirements of this Ordinance, the City may order any person having a proprietary interest in the property or any person engaged in the development of or construction on the property to cease and desist from engaging in the development of or construction activities on the site. The cease and desist order shall be in writing and shall be posted on the site. Additionally, notice shall be mailed to the owner or tenant of the structure. If the structure is unoccupied at the time of non-compliance, the notice shall be mailed to the owner of the property as shown on the current records of the Brazos County Tax District. The order shall specifically state the nature of the non-compliance and the acts prohibited.

9.04.02 Legal Remedies: The City may bring suit in a court of competent jurisdiction to restrain and enjoin any person attempting or allowing the use, development or construction without a permit or other authorization or who fails to cease and desist from further development or construction after notice of a cease and desist order has been posted in accordance with this Article.

9.04.03 Duration of Cease and Desist Order: When the City determines that there has been non-compliance with any material term, condition, or requirements of this Ordinance, which constitutes a health or safety hazard, a cease and desist order shall be issued and shall remain in effect until there has been compliance with this Ordinance.

Section 9.05 Appeals of Suspensions, Revocations, and Cease and Desist Orders

9.05.01 Appeal Filing: An appeal of a suspension order, revocation order, or cease and desist order, may be made to the Zoning Officer by any person aggrieved, by giving written notice no later than three (3) days after the order has either been received by certified mail or posted on the property. The notice shall state:

- A. The name and address of the person making the appeal;
- B. The facts surrounding the particular case;
- C. The nature of the suspension, revocation order, or the cease and desist order; and
- D. The reason or reasons why the ruling should be set aside.

9.05.02 Zoning Officer to Hear Appeal: The Zoning Officer shall hear the appeal, together with any technical testimony presented on behalf of the appellant and the City no later than ten (10) calendar days after the appeal has been filed. The Zoning Officer shall either affirm

or reverse the decision appealed, no later than seven (7) days after the hearing. The appellant shall receive written notice of the decision accompanied by a statement of reasons supporting the decision.

9.05.03 Appeal of Hearing Decision to Board of Adjustment: An appeal of the Zoning Officer's decision may be made by any aggrieved party to the Board of Adjustment. The appellant shall give written notice to the Board of Adjustment in the manner provided in subsection 9.05.01, above.

9.05.04 Board of Adjustment to Hear Appeal: The Board of Adjustment shall hear the appeal at its next scheduled meeting following the receipt of the notice of the appeal, and shall affirm, modify, or reverse the decision of the Zoning Officer.

Section 9.06 Criminal Enforcement

A violation of any of the provisions of this Ordinance shall be unlawful and shall constitute a misdemeanor. Each day that a violation continues shall constitute a distinct and separate violation. Any criminal violation of this Ordinance shall be fined in an amount not to exceed two thousand dollars (\$2,000) per offense. Nothing in this section of the Ordinance shall limit in any manner the authority of the City of Kurten to seek any injunctive or other civil relief remedies available under the laws of the State of Texas.

Section 9.07 Civil Remedies

If any building, structure, or land is used, constructed, maintained, repaired, or altered, or any development is undertaken in violation of this Ordinance, the City may institute any appropriate action to prevent, restrain, correct, or abate the violation as authorized by Section 54.012, of the Texas Local Government Code, or other laws of the State of Texas.



ARTICLE 10

Definitions

Section 10.01 General Definitions

For the purpose of these regulations, words used in the present tense include the future tenses; words used in the singular number include the plural, and words in the plural include the singular, except where the natural and obvious construction of the writing indicates otherwise. The word "may" is not discretionary unless the context in which it is used indicates otherwise. The word must and shall are mandatory in every instance. For purposes of this Ordinance, certain terms and words are to be used and interpreted as hereinafter defined.

- 10.01.01 Accessory Apartment: A single dwelling unit which is clearly secondary and accessory to the main dwelling unit on a residential lot, and containing not more than one thousand (1,000) square feet of habitable floor area.
- 10.01.02 Accessory Building: A building customarily incidental and subordinate to the main building or use located on the same lot with the main building.
- 10.01.03 Accessory Use: A land use activity that is customarily incidental, appropriate and subordinate to the principal use of the land or buildings located upon the same premises.
- 10.01.04 Adult Use: A sexually oriented business.
- 10.01.05 Agriculture: The use of land for agricultural purposes, including farming, pasturage, horticulture, floriculture, viticulture, limited animal husbandry, and the necessary accessory uses for the packing, crating, or storing of produce; provided, however, the operation of any such accessory use must be secondary to that of the normal agricultural activities. The operation of commercial feed lots, chicken breeding facilities, sales yards and auction yards for cattle, hogs, sheep, or goats, is deemed an industrial and not an agricultural land use.
- 10.01.06 Alteration or Altered: Shall include the following:
- A. Any addition to the height or depth of a structure.
 - B. Any change in the location of any of the exterior walls of a structure.
 - C. Any increase in the interior accommodations of a structure.
- 10.01.07 Automobile Service Station: Any parcel of land, including the structures thereon, used for the sale of gasoline, oil, or other fuels, and automobile accessories, and which may include facilities for lubricating, washing, cleaning, mechanical repair, and other normal servicing of automobiles. Painting is not within the scope of "other normal servicing."

- 10.01.08 Automobile Wash: A facility designed primarily for washing automobiles.
- 10.01.09 Automobile: A self-propelled mechanical vehicle designed for use on streets and highways for the conveyance of goods and people including but not limited to the following: passenger cars, trucks, busses, vans, motor scooters, and motorcycles.
- 10.01.10 Average Grade: The grade of the finished ground level at the midpoint of each exterior surface of a sign, or a structure, in the event that the sign is attached to the structure.
- 10.01.11 Bar, Dance Hall, Lounge, Night Club, or Tavern: An establishment for the sale of beer or intoxicating liquor for consumption on the premises.
- 10.01.12 Board of Adjustment: The Board of Adjustment of the City of Kurten, Texas.
- 10.01.13 Building Area: That portion of a lot upon which buildings may be placed, excluding required yards and limited by the maximum building coverage as specified for each zoning district.
- 10.01.14 Building Coverage: The percent of the lot area covered by the building exclusive of all overhanging roofs.
- 10.01.15 Building Line: A line established generally parallel to the front street line. No building or structure may be permitted in the area between the building line and the street right-of-way line.
- 10.01.16 Building Site: A single parcel of land occupied or intended to be occupied by a building or structure.
- 10.01.17 Building: Any structure intended for shelter, housing or enclosure of persons, animals or chattel. When separated by dividing walls without openings, each portion of such structure so separated shall be deemed a separate structure.
- A. Primary: A building in which the primary activity associated with the lot is conducted. In any residential zoning district, any dwelling shall be considered the primary building.
 - B. Secondary: A building customarily incidental and subordinate to the primary building located on the same lot.
 - C. Storage/Portable: A nonresidential, pre-manufactured or site-built structure, normally less than one-hundred and fifty (150) square feet in floor area, and commonly used for the storage of lawn equipment, tools, and other items associated with residential living.
- 10.01.18 Cabaret: A nightclub, theater, or other establishment which features live performances by topless and/or bottomless dancers, "go-go" dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or

characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.

- 10.01.19 Carport: A permanent roofed structure open on at least two sides, designed for the parking and shelter of private passenger vehicles.
- 10.01.20 Child Care Facility: A facility that provides care, training, education, custody or supervision for more than six (6) children under the age of fourteen (14) years of age who are not related by blood, marriage or adoption to the adult occupant of the associated structure.
- 10.01.21 City Council: The governing body of the City of Kurten, Texas.
- 10.01.22 Clinic: A facility for the examination and treatment of ill and afflicted human outpatients; provided, however, that patients are not kept overnight except under emergency conditions, including but not limited to dental and physician services.
- 10.01.23 Comprehensive City Plan: The planning document and related material officially adopted by the City of Kurten, containing the goals, objectives, and policies pertaining to land use, community facilities, infrastructure, circulation, housing, and other subjects related to the growth and development of the City.
- 10.01.24 Convalescent, Rest, Nursing, or Extended Care Facility: A health care facility where persons are housed, furnished with meals, and provided with continuing nursing care for compensation.
- 10.01.25 Daytime: The hours between sunrise and sunset on any given day.
- 10.01.26 Development: The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance, and any use or extension of the use of land.
- 10.01.27 District, Zoning: Any section or sections of the City of Kurten for which regulations governing the use of buildings and/or premises are described in Article 4, of this Ordinance and as shown on the Official Zoning Map of Kurten.
- 10.01.28 Drainage: The removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water-supply preservation or prevention or alleviation of flooding.
- 10.01.29 Dwelling or Dwelling Unit: Any portion of a building used, intended or designed as a separate abode for people.
- A. Attached: A dwelling having one or more walls common with a principal building, or joined to a principal building by a covered porch, loggia, or passage way, the roof of which is a part or extension of the principal building.

- B. Detached: A dwelling which is fully separated from any other building or joined to another building by structural members not constituting an enclosed or covered space.
 - C. Mixed-Use: A dwelling unit which is a part of a project which may be composed of residential, office, and commercial land use activities.
 - D. Multiple-Family Dwelling: A dwelling designed for occupancy by two (2) or more families living independently of each other as tenants or owners, exclusive of recreational vehicle camps, hotels, motels, or resort facilities.
 - E. Townhouse or Rowhouse Dwelling: Three (3) or more dwelling units attached at the side or sides, each unit of which has a separate outdoor entrance and is designed to be occupied and may be rented or owned by one family.
 - F. Zero Lot Line Dwelling: A dwelling located on a lot in such a manner that one or more of the dwelling's sides rest directly on a lot line.
- 10.01.30 Easement: The area for and a right granted thereon for the purpose of limited public or semi-public use across, over, or under private property for a specified purpose or purposes.
- 10.01.31 Erect: To build, construct, alter, reconstruct, pour, lay, move upon, attach, hang, place, suspend or affix, and also includes the painting of wall signs, murals or super graphics, or any physical operation on the premises which are required for the construction of a sign including excavation, site clearance, landfill, and the like.
- 10.01.32 Family: One or more persons related by blood or marriage, including adopted children, or a group of not to exceed five (5) persons not all related by blood or marriage, occupying premises and living as a single nonprofit housekeeping unit, as distinguished from a group occupying a boarding or lodging house, hotel, motel, club, or similar dwelling for group use.
- 10.01.33 Farm: See "Agriculture", above.
- 10.01.34 Farm Animals: Cattle and horses.
- 10.01.35 Floor Area:
- A. Gross: The sum of the horizontal areas of all floors of a building, measured from the exterior faces of exterior walls or from the center line of the walls separating two buildings, and including but not limited to:
 - 1. Basements;
 - 2. Elevator shafts and stairwells of each floor;
 - 3. Floor space for mechanical equipment with structural head room of seven feet;

4. Penthouses;
 5. Attic space providing headroom of seven feet or more;
 6. Interior balconies, mezzanines, enclosed covered porches and steps;
 7. Accessory uses in enclosed covered space, but not including space used for off-street parking.
- B. Net: The total floor area within a building devoted or intended to be devoted to a particular use, within structural headroom of seven feet or more, whether above or below the finished lot grade, and excluding items A.2, A.3, and A.7 above.
- C. Ratio: A mathematical expression determined by dividing the gross floor area of a building by the area of the lot on which it is located.
- 10.01.36 Frontage: The measure of property on one side of a street, closest to the street right-of-way, and between the two side property lines associated with the same tract of land.
- 10.01.37 Ground Cover: Plants, normally reaching an average maximum height of not more than 24 inches at maturity.
- 10.01.38 Group Home: An interim or permanent residential facility shared by six (6) or fewer people who do not meet the definition of "family" including any resident staff who share a single housekeeping unit.
- 10.01.39 Home Occupation: An occupation that is incidental and secondary to the primary use of the premises as a residence, and which is not detrimental to adjoining properties.
- 10.01.40 Home Owners' Association: A formal nonprofit organization operating under recorded land agreements through which (1) each lot and/or homeowner in a residential subdivision or a planned unit development is automatically made a member, and (2) each lot is automatically made subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintenance of common property, and (3) the fee if unpaid becomes a lien against the nonpaying homeowner's property.
- 10.01.41 Hospital: An institution providing health services primarily for human inpatient, medical or surgical care for the sick or injured and including related facilities such as laboratories, outpatient departments, training facilities, central service facilities, and staff offices which are an integral part of the facilities.
- 10.01.42 Industrial Zone: Intended primarily for the conduct of manufacturing, assembling and fabrication, and for warehousing, wholesaling and service operations which may depend upon frequent customer or client visits.
- 10.01.43 Junk or Salvage Yard: A place where waste, discarded or salvaged metals, used plumbing fixtures, automobile parts, and other materials are bought, sold, exchanged,

stored, baled, or cleaned, and the places or yards for the storage of salvaged materials and equipment from housing wrecking and salvaged structural steel materials and equipment, but excluding establishments for the sale, purchase or storage of used cars in operable condition, salvaged machinery, used furniture, and household equipment, and the processing of used, discarded or salvaged materials as a part of manufacturing operations.

- 10.01.44 Landscaping: Any combination of living plants such as grass, ground cover, shrubs, vines, hedges, or trees.
- 10.01.45 Loading Space: A space within the main building or on the same lot therewith, provided for the standing, loading or unloading of trucks and having minimum dimensions of twelve (12) by sixty (60) feet.
- 10.01.46 Lot: A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance, including one (1) principal building together with its accessory buildings, open spaces and parking spaces required by this Ordinance, and having its principal frontage upon a street or upon an officially approved point of access.
- A. Corner: A lot abutting upon two (2) or more streets at their intersection.
 - B. Depth: The perpendicular distance between the front and the rear lot lines.
 - C. Double-Frontage: A lot having direct access to two parallel public streets. For purposes of this Ordinance, land abutting such streets shall be considered "front yards." (Please see illustration 3 at the end of this section of the Ordinance.)
 - D. Line: The boundary line of the property.
 - E. Frontage: The yard or yards nearest the street.
 - F. Rear Line: The boundary of a lot which is most distant from, and most nearly parallel to the front lot line.
 - G. Side Line: Lines running between the front and rear property lines.
- 10.01.47 Manufactured, Modular, or Industrialized Home: A structure, constructed on or after June 15, 1976, according to the rules of the U.S. Department of Housing and Urban Development, transportable in one or more sections, which in the travel mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three-hundred and twenty (320) or more square feet in area, and which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, and electrical systems. This term does not include recreational vehicle.
- 10.01.48 Mixed-Use Project: A real estate complex which may include residential, office, commercial, and other diverse forms of land use activity; frequently created as an integrated project.

- 10.01.49 Mobile Home Pad or Lot Area: An area designed for the exclusive use of an individual mobile home.
- 10.01.50 Mobile Home: A movable, detached single-family dwelling unit, constructed before June 15, 1976, conforming to the minimum housing code requirements of both the State of Texas and Kurten, for permanent long-term occupancy; is constructed or fabricated within a factory, complete with an integral utility system capable of being connected to an outside system; can be transported over the road on its own chassis and wheels to the site where it is to be connected semi-permanently to a separate utility system and is not permanently attached to any foundation as required for permanent conventional dwelling or structure.
- 10.01.51 Motel or Hotel: Furnished, temporary living quarters that charge daily rates and are normally intended for overnight or a few days accommodations. Hotels and motels do not include accommodations that are intended for extended stay or permanent living quarters.
- 10.01.52 Nonconformance: A condition of a structure or land which does not conform to the regulations of the zoning district in which it is situated. This may include but is not limited to a failure to conform to use, height, area, coverage, or off-street parking requirements.
- 10.01.53 Nonconforming Use: A structure or a parcel of land occupied by a land use activity that does not conform to the regulations of this Zoning Ordinance and the district in which it is situated and which has been identified as a nonconforming use by the Board of Adjustment.
- 10.01.54 Odorous Matter: Any solid, liquid or gaseous matter, including but not limited to gases, vapors, dusts, fumes and mists which cause an odor sensation to human beings.
- 10.01.55 Open Storage and Display: The storage of any equipment, machinery, commodities, raw semi-finished or finished materials, and building materials, which is visible from any public street.
- 10.01.56 Parking, Interior: Parking rows which are not located on the periphery of the proposed project site and further, where none of the parking spaces abut any property line associated with the project site.
- 10.01.57 Parking Rows:
- A. Single Parking Row: A single row of spaces for the parking of motor vehicles.
 - B. Double Parking: Two parallel rows of spaces for the parking of motor vehicles arranged so that when parked, the front end of each motor vehicle faces the front end of another motor vehicle.
- 10.01.58 Parking Space: A permanently surfaced area, enclosed or unenclosed, sufficient in size to store one automobile together with a permanently surfaced driveway connecting the parking space with a street or alley and permitting ingress or egress of

an automobile. For the purposes of this Ordinance, the size of a parking space shall be in conformance with Article 6, of this Ordinance.

- 10.01.59 Particulate Matter: Finely divided solid or liquid matter, other than water, which is released into the atmosphere.
- 10.01.60 Paving: A system of structuring base material and sealing an impervious wear surface, done in accordance with specifications provided by the Zoning Officer.
- 10.01.61 Person: Any individual, firm, corporation, partnership or association of persons of whatever nature or description.
- 10.01.62 Planning and Zoning Commission: The Planning and Zoning Commission of the City of Kurten, Texas.
- 10.01.63 Private Club: Quarters for a private organization with restricted membership, and including the on-site sale or use of alcoholic beverages, along with social and recreational facilities for members only.
- 10.01.64 Recreational Vehicle: A portable vehicle built on a chassis and intended to be used generally for temporary living and sleeping quarters for travel, recreation and vacation purposes. The term includes travel trailers designed to be towed, motor homes designed as temporary dwellings equipped to travel under their own power, and any other portable contrivances intended to be used as temporary living and sleeping quarters which may be moved under its own power, towed or transported by another vehicle. This definition does not include mobile homes.
- 10.01.65 Restaurant:
- A. Conventional: An eating establishment, including cafeterias, where customers are primarily served at tables or are self-served and food is consumed on the premises, and which may include a drive-in window.
 - B. Drive-In: An eating establishment where food is served to customers in motor vehicles or where facilities are provided on the premises which encourage the serving and consumption of food in automobiles on or near the restaurant premises.
- 10.01.66 Screen: A barrier of stone, brick, pierced brick or block, wood or other permanent material of equal character, density, and acceptable design at least six (6) feet in height nor more than eight (8) feet in height, where the solid area equals at least sixty-five percent (65%) of the wall surface. Such device shall be continually maintained. The City may approve a screening device composed of landscaping material where it can be shown that such planting will be installed and continually maintained in accordance with the intent of this Ordinance.
- 10.01.67 Setback: A distance between the lot line and the building line.
- 10.01.68 Shopping Center: A group of primarily retail and service commercial shops planned, constructed and managed as a total entity with customer and employee parking

provided on-site, provision for goods delivery separated from customer access, provision of aesthetically appropriate design and protection from the elements.

- 10.01.69 Site Plan: A drawing showing the provisions for a proposed project, including such information that enables the drawing to serve as a plat, together with information pertaining to all covenants relating to the site, location and bulk of structures, intensity of use or density of development, location of streets, ways, and parking facilities; common open space and public facilities, and all other reasonable information required by the Planning Commission as a part of the review process.
- 10.01.70 Special Event: Any temporary activity or event involving any public show, exhibition, street dance, carnival, circus, concert, fair, festival, trade show, or amusement of any kind outside the confines of a building or permanent structure.
- 10.01.71 Stable:
- A. Private: A stable for personal, noncommercial use, for horses, mules, or donkeys.
 - B. Public: A stable, other than a private stable, where animals are rented or leased to the public, or where shelter is provided for animals.
- 10.01.72 Street: Any public thoroughfare which affords the principal link between various land use activities. The City of Kurten has adopted a functional street classification system that is defined as follows:
- A. Arterial-Primary: An expressway, freeway, or primary thoroughfare whose primary function is the movement of traffic.
 - B. Arterial-Secondary: A thoroughfare whose predominate function is the movement of traffic but which provides more access than normally associated with a primary arterial.
 - C. Collector: A street designed to serve equally the functions of access and movement. Collector streets serve as links between local streets and arterials.
 - D. Frontage or Service Road: A collector street generally parallel to and adjacent to arterials, which provide access to abutting properties and protection from through traffic.
 - E. Local: A neighborhood or minor street whose primary purpose is to provide access to abutting properties.
 - F. Cul-de-Sac: A local street having one end open to vehicular traffic and having one end closed or terminated with a turning circle.
- 10.01.73 Structural Alteration: Any change in the supporting members of a building such as bearing walls, bearing partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

- 10.01.74 Structure: Anything constructed or erected, the use of which requires a location on the ground or an attachment to something located on the ground.
- 10.01.75 Subdivision: The division of any lot, tract or parcel of land by plat, map or description, into two (2) or more parts, lots, building lots, or sites or building sites, for the purpose, whether immediate or future, of sale, rental, or lease, or division of ownership. Any dedication and the laying-out (or realignment) of new streets, or other public access ways, with or without plotting, is a subdivision. This definition also includes the resubdivision and replatting of land or lots that are part of a previously recorded subdivision. Divisions of land for agricultural purposes in parcels of five (5) acres or more and where no building construction is involved shall not be included within the definition of a subdivision, unless any such subdivision of five (5) acres or more includes the planning or development of a new street or access easement or realignment of an existing street. An “addition” is a subdivision as defined herein. A testamentary division of land or division of land upon dissolution of a corporation or partnership shall not be considered a subdivision.
- 10.01.76 Tree: A large, woody plant having one or several self-supporting stems or trunks and numerous branches.
- 10.01.77 Wild Animals: Animals customarily associated with the wild, including but not limited to tigers, lions, bears, wolves, coyotes, skunks, raccoons, ferrets, snakes, etc.
- 10.01.78 Yard:

A. Front: An unoccupied open space on the same lot with a building, located between the wall of the building nearest the street on which the lot fronts, and bounded by the line of that wall extended, the side lines of the lot and the front street line of the lot. The minimum depth of the front yard is the distance between the nearest point of the street wall of the building and the front line of the lot, or that line produced, measured at right angles to the front line of the lot. The front yard of a corner lot consisting of one platted lot is the yard adjacent to that street on which the lot has its least dimension. When this question arises, the Zoning Officer shall make a final determination. If a corner lot consists entirely of unplatted land or a combination of platted land, the front yard is located on the street on which the greater number of lots front, regardless of whether those lots are platted or unplatted. If a corner lot consists of all or more than two platted parcels of land each of whose least dimension is on the same street as the other lots in the block, then the location of the front yard is on the same street as the other lots.

Any questions as to the determination of yards associated with corner lots shall be resolved by the Zoning Officer.

B. Rear: An unoccupied open space on the same lot with a building, between the rear line of a building and bounded by the rear line extended, the side lines of the lot and the rear line of the lot. Where no rear building line exists, a line parallel to the front street line and distant as far as possible and not less than ten (10) feet long, is deemed to be the rear line. The depth of the rear yard is the distance

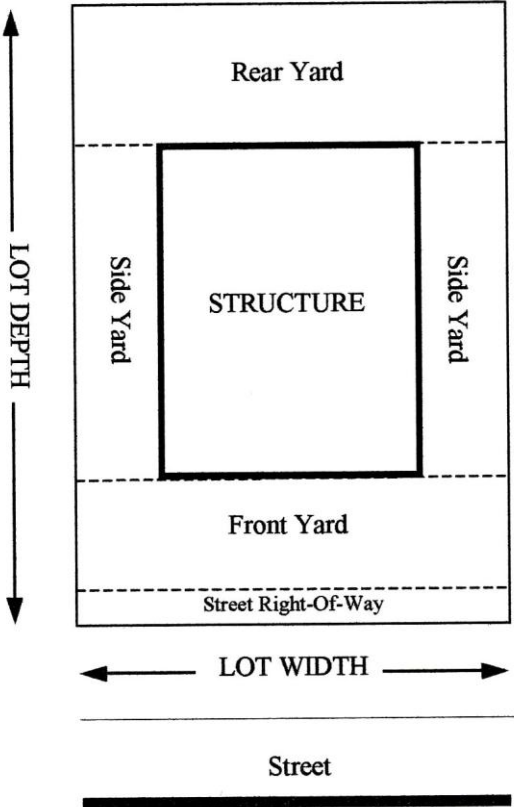
between the nearest point of the rear wall of the building and the rear line of the lot.

C. Side: An unoccupied open space on the same lot with a building situated between the building and the side line of the lot and extended through from the front yard to the rear yard. Any line not a rear line or a front line is deemed to be a side yard line.

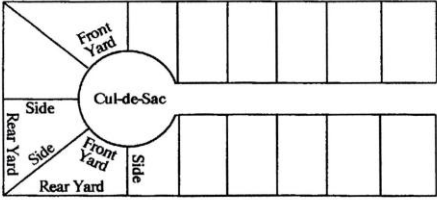
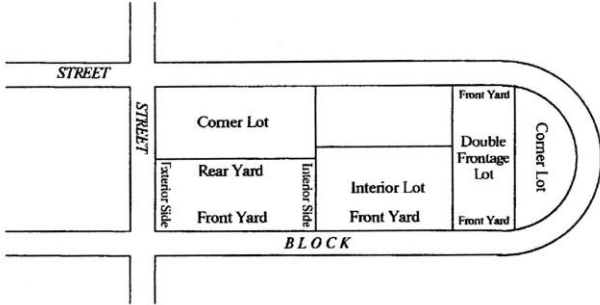
10.01.79 Zoning Map: The official zoning map of the City of Kurten upon which the boundaries of the various zoning districts are drawn and which is an integral part of this Zoning Ordinance. The Zoning Map shall be housed, maintained, and revised regularly by the Mayor or other person designated by the Mayor.

10.01.80 Zoning Officer: A municipal staff member who, working under the direction of the Mayor, assists in the implementation of this Ordinance.

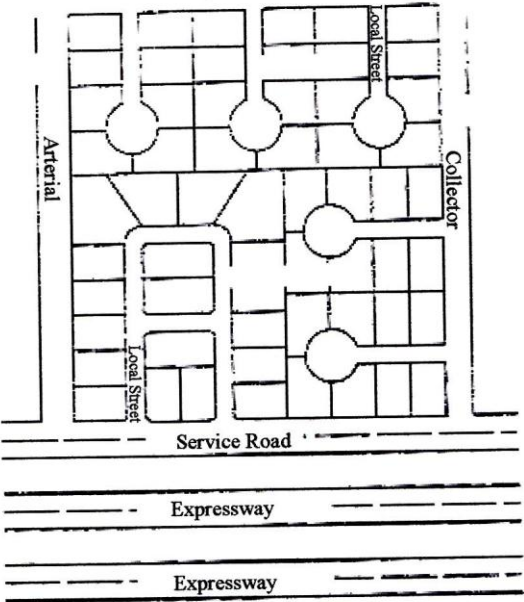
Lot Measures



Lot Types

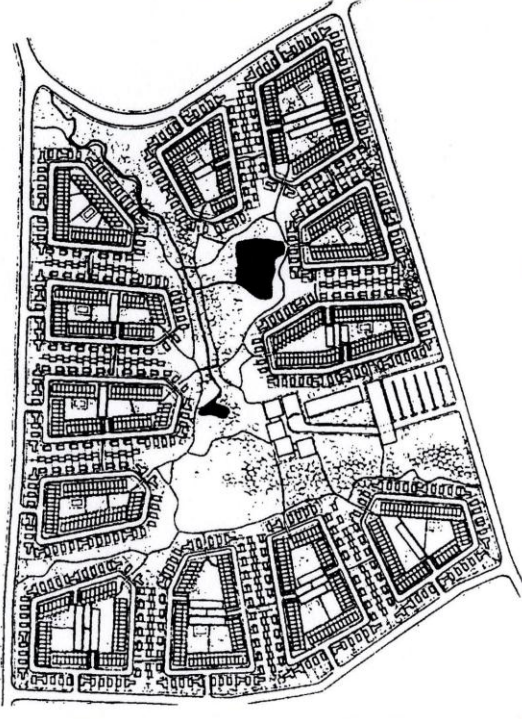


Functional Street Classifications



**Conventional
Subdivision Design**

**Cluster
or
Planned Unit Development
Subdivision Design**



APPENDIX 1

Zoning Forms

1. Certificate of Occupancy
2. Zoning Map Amendment
3. Zoning Ordinance Text Amendment
4. Conditional Use Permit
5. Variance Request
6. Zoning Map or Text Interpretation
7. Land Use Permit Form
8. Special Events Form

City of Kurten

Certificate of Occupancy Form

NOTE: Please print all information requested below.

Number _____

Date _____

Certificate Approved

Certificate Denied

Name of Property Owner _____

Owner's Signature _____

Owner's Address _____

Phone _____

Address of the subject property _____

Legal Description _____

Current zoning classification of the subject property: _____

Proposed use of the subject property _____

Code Enforcement Officer's Notes: _____

Code Enforcement Officer's Signature

Date



City of Kurten

Zoning Map Amendment Form

NOTE: Please print all information requested below.

Number _____

Date _____

Name of Applicant _____

Applicant's Signature _____

Current Address _____

Phone _____

Address of the property you seek to have rezoned _____

Legal description of the property _____

Legal capacity in which you are applying for this rezoning:

Owner

Representative of the owner

Other (explain below)

Current zoning classification of the property: _____

Requested zoning classification: _____

Reasons supporting your requested rezoning: _____

Current land use activities abutting the subject property:

On the North: _____

On the South: _____

On the East: _____

On the West: _____

_____ Public hearing date for the Planning & Zoning Commission

_____ Date notice sent to abutting property owners (At least 10 days before the public hearing date.)

_____ Date notice published in a local newspaper

Planning Commission Report Reasons supporting the recommendations of the Planning & Zoning Commission:

Protest by 20% or more of abutting property owners? ___ Yes ___ No

_____ Public hearing date for the City Council.

_____ Date notice published in a local newspaper. (Not less than 15 days before the public hearing date.)

Decision of the City Council: _____ Rezoning request approved _____ Rezoning request denied

Reasons given for the City Council's decision:



City of Kurten

Zoning Ordinance Text Amendment

NOTE: Please print all information requested below.

Number _____

Date _____

Name of Applicant _____

Applicant's Signature _____

Current Address _____

Phone _____

Text to be amended , or New text to be added

Location in the Zoning Ordinance of the text to be amended or added:

Article

Section

Page

Current text to be amended as it presently exists: _____

(attach extra page if necessary)

Proposed replacement or new text: _____

Reason(s) for the proposed text amendment or addition:

(attach extra page if necessary)

_____ Public Hearing Date for the Planning & Zoning Commission

_____ Date published in a local newspaper.

Planning & Zoning Commission Report: Recommend Approval Recommend Denial

Planning and Zoning Commission Report Notes: _____

_____ Public hearing date for the City Council.

_____ Date notice published in a local newspaper. (Not less than 15 days before the public hearing.)

Decision of the City Council: Text amendment approved Text amendment denied

Reasons given for the City Council's decision: _____



Conditional Use Permit Form

NOTE: Please print all information requested below.

Number _____

Date _____

Name of Applicant _____

Applicant's Signature _____

Current Address _____

Phone _____

Address of the subject property _____

Legal description of the property _____

Legal capacity in which you are applying for this rezoning:

Owner

Representative of the owner

Other (explain below)

Current zoning classification of the subject property: _____

Requested conditional use: _____

Reasons supporting your request: _____

Current land use activities abutting the subject property:

On the North: _____

On the South: _____

On the East: _____

On the West: _____

_____ Public hearing date for the Planning & Zoning Commission

_____ Date notice sent to abutting property owners

_____ Date notice published in a local newspaper

Decision of the Planning & Zoning Commission:

_____ Conditional Use Permit approved

_____ Conditional Use Permit Denied

Reasons given for the decision of the Planning & Zoning Commission:

Conditions related to the issuance of the Conditional Use Permit:



City of Kurten

Variance Request Form

NOTE: Please print all information requested below.

Number _____

Date _____

Name of Applicant _____

Applicant's Signature _____

Current Address _____

Phone _____

Address of the subject property _____

Legal description of the property _____

Legal capacity in which you are applying for this rezoning:

Owner

Representative of the owner

Other (explain below)

Current zoning classification of the subject property: _____

Variance requested: _____

NOTE: A variance may only be granted where due to special conditions which are not self-imposed, a literal enforcement of the zoning ordinance would result in unnecessary hardship. A variance may only be granted where it is not contrary to the public interest. A variance may only be granted where the spirit of the zoning ordinance will be observed and substantial justice will be done.

Reasons supporting your request: _____

Current land use activities abutting the subject property:

On the North: _____

On the South: _____

On the East: _____

On the West: _____

_____ Public hearing date for the Board of Adjustment

_____ Date notice published in a local newspaper.

Decision of the Board of Adjustment:

Variance approved

Variance Denied

Board of Adjustment members voting to approve the variance:

_____	_____
_____	_____

Board of Adjustment members voting to deny the variance:

_____	_____
_____	_____

Reasons given for the decision of the Board of Adjustment:



City of Kurten

Zoning Map or Text Interpretation Request

Number _____

Date _____

Name of Applicant _____

Applicant's Signature _____

Current Address _____

Text interpretation

Map interpretation

Phone _____

Zoning text that the Applicant seeks to have interpreted: Article _____ Section _____ Page _____

Text to be interpreted: _____

Map area to be interpreted: _____

_____ Public hearing date for the Board of Adjustment

_____ Date notice published in a local newspaper.

Board of Adjustment members participating in the decision:

Decision of the Board of Adjustment: _____

Lined area for decision text.



City of Kurten

Land Use Permit Form

NOTE: Please print all information requested below.

Number _____

Date _____

Permit Approved

Permit Denied

Name of Property Owner

Owner's Signature _____

Owner's Address _____

Phone _____

Address of the subject property _____

Legal Description _____

Current zoning classification of the subject property: _____

Proposed use of the subject property _____

Type of structure(s) to be built:

Size (sq/ft) of structure(s) to be built:

Location of structure(s) to be built:(in relationship to property lines)

Code Enforcement Officer's Notes: _____

Code Enforcement Officer's Signature

Date

Special Event Permit Form

City of Kurten

Event Title: _____

Description:

Event Category

- Athletic/Recreation
- Exhibits/Misc.
- Festival/Celebration
- Parade/Procession/March
- Concert/Performance
- Farmer/Outdoor market
- Museum Special Attraction
- Dance
- Circus
- Carnival

Anticipated Attendance _____

Anticipated Participants _____

Date/Time

Setup	Date_____	Time_____	Day of Week_____
Event Starts	Date_____	Time_____	Day of Week_____
Event Ends	Date_____	Time_____	Day of Week_____
Dismantle	Date_____	Time_____	Day of Week_____

Location

Location Description:

Applicant's Name _____

Applicant's Address

Telephone _____

Is the Host Organization a Commercial entity? _____

Is the Host Organization a nonprofit entity? _____ If yes attach to application.

Are there patron, entry, or participant fees? _____

If so, please indicate type and amount.

Please Note: See **Section 4.04** of the City of Kurten Zoning Ordinance for requirements and restriction on Special Events.