

ARTICLE V

DEFINITIONS

SECTION 1. DEFINITIONS: For the purpose of interpreting the provisions of these Regulations, certain terms or words used herein shall be interpreted or defined as follows, unless the context clearly indicates otherwise:

1. *Accessory Building.* A subordinate building or portion of the main building, the use of which customarily is incidental to that of the main building or to the main use of the premises. For the purposes of this Ordinance, the term accessory building shall include garages, tool sheds, and similar structures.
2. *Accessory Use.* A use of land customarily incidental and subordinate to the use of the principal building on the same lot or tract.
3. *Adult Book and/or Video Store.* An establishment which offers for sale or rental books, magazines, photographs, films, videos, or other visual representations, and other materials oriented toward representation of sexual activity of any kind.
4. *Adult Entertainment Establishment.* Any premises which provides adult sexually-oriented entertainment whether live or by motion pictures, videos, photographic reproductions, or other means.
5. *Adult Novelty Store.* A commercial establishment offering for sale visual materials, printed matter, instruments, devices and other paraphernalia designed and intended for use in connection with sexual activities.
6. *Agriculture.* The use of a tract of land, where the principal activity is to produce income from the growing of crops, horticulture, nurseries, truck farms, or the raising of fish, poultry, and cattle or other livestock, including commercial feed lots. Such definition includes the structures necessary for carrying on farming operations and, as accessory uses, the dwelling(s) of those owning and/or operating the premises, including single-wide manufactured homes. The retail sale of items produced as part of the farming operation is permitted including the operation of commercial tree nurseries and hydroponic farming.
7. *Alley.* A strip of land along the side of or in the rear of lots intended to provide a secondary means of access to and from streets and such lots.
8. *Alley Line.* The line of division between the public travelway comprising the alley and the private lot.
9. *Alteration.* Alteration, as applied to a building or structure, is a change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing the height, or the moving from one location or position to another, shall be considered an alteration.

10. *Animal Hospital or Clinic.* An establishment where animals are admitted principally for examination and treatment by a Doctor of Veterinary Medicine. Boarding of animals shall be limited to that necessary for the treatment of the sick animals. This does not include open kennels or runs.
11. *Apartment.* A room or suite of rooms in an apartment house or other building intended, designed, used, or suitable for use by one or more persons as a place of residence with culinary accommodations.
12. *Apartment House.* A building or portion thereof intended, designed, used, or suitable for use as a residence for three (3) or more families living in separate apartments.
13. *Approved Public Sanitary Sewer System.* A sewage disposal plant, main sanitary sewer lines and other lines approved by the governing body of the City of Downs, Kansas and the Kansas State Department of Health.
14. *Approved Public Water System.* Water supply and distribution lines approved by the governing body of the City of Downs, Kansas and the Kansas State Department of Health.
15. *Attached Accessory Building.* A building which has approximately 50% of any wall in common with a wall or portion of a principal building or is built as an integral part of the principal building.
16. *Automobile Service Station.* A structure and surrounding land used for the storage and sale of petroleum fuel, including self-service, primarily to passenger vehicles and/or for accessory uses, such as the sale of lubricants, accessories, or supplies; the incidental washing of motor vehicles, and the performing of minor repairs; but not including tire recapping, body repairs, major overhaul, or open sales lots.
17. *Basement.* A story of a building having more than one-half (1/2) of its height below grade and which serves as substructure or foundation for the remainder of the building.
18. *Bed and Breakfast Inn.* A residential structure other than a hotel or boarding house, where for compensation and by pre-arrangement for definite short-term periods, sleeping rooms and meals are provided for one or more persons, provided that when the inn is located in a residential district, the number of such sleeping rooms shall not exceed a maximum of six (6) sleeping rooms.
19. *Block.* A series of lots entirely surrounded by public rights-of-way, railroad rights-of-way, park, greenstrips, open land, or water ways.
20. *Board of Zoning Appeals.* Referred to herein as the "Board" which has been created by the Governing Body and which has the statutory authority to hear and determine appeals, special uses, exceptions, and variances to these zoning regulations.

21. *Boarding Home for Children.* A residential facility where children not related to the family by blood, marriage, or adoption are cared for twenty-four (24) hours a day by adult supervision which is licensed by the Kansas Department of Health and Environment.
22. *Boarding or Lodging House.* A building or place, other than a hotel, where by pre-arrangement and for compensation, lodging and meals for a definite period are provided for three (3) or more persons, but not exceeding twenty (20) persons, and such accommodations are not furnished to transient or overnight customers. Individual cooking facilities shall not be provided.
23. *Buildable Area.* That area of a parcel or lot within which a structure can be constructed without conflicting with any requirements established by these regulations.
24. *Building.* A structure having a roof supported by columns or walls intended, designed, used, or suitable for use for the support, enclosure, shelter, or protection of persons, animals, or property; and when separated by fire walls each portion of such structure so separated shall be deemed a separate building.
25. *Building Height.* The vertical distance measured from the average elevation of the finished lot grade to the highest point of a coping or a flat roof, or to the deck line of a mansard roof, or to the mean height between eaves and ridge of gable, hip, curved, or gambrel roof.
26. *Building Line.* The building setback line established by the yard regulations. (also see SETBACK and YARD definitions.)
27. *Building – Main.* A building in which is conducted the principal use of the lot or parcel upon which it is situated. Every dwelling in a residential district is a main building.
28. *Building Official.* The person or persons designated to administer this Zoning Ordinance, whether such person or persons be entitled Building Official, Building Inspector, Administrative Official, City Engineer, City Administrator, City Clerk or Zoning Official.
29. *Building Site.* The land area, consisting of one or more lots or parcels of land under common ownership or control, considered as the unit of land occupied or to be occupied by a main building or buildings and accessory building, or by a principal use or uses accessory thereto, together with such parking and loading spaces, yards, and open spaces as are required by these regulations.
30. *Bulk Regulations.* Regulations controlling the size of structures and the relationships of structures and uses to each other and to open areas and lot lines. Bulk regulations include regulations controlling: (1) maximum height, (2) maximum lot coverage, and (3) minimum size of yard and setbacks.
31. *Business and Professional Office.* The office of an architect, engineer, dentist, doctor, attorney, real estate or insurance agent, or other similar professional person, and any office used primarily for accounting, correspondence, research, editing, or administration.

32. *Campgrounds.* Any parcel of ground which provides space for transient occupancy and is used or intended to be used for the parking of one (1) or more camping trailers, tents, or similar recreational vehicles. No camper shall occupy a campground for a period exceeding thirty (30) days on a temporary basis. The term campgrounds does not include sales lots of which unoccupied camping trailers, whether new or used, are parked for the purpose of storage, inspection, or sale.
33. *Canopy.* Any structure, movable or stationary, attached to and deriving its support from framework or posts or other means independent of a connected structure for the purpose of shielding a platform, stoop, or sidewalk from the elements, or a roof-like structure of a permanent nature which projects from the wall of a structure and overhangs the public way.
34. *Car Wash.* An establishment having facilities designed or used exclusively for washing or cleaning motor vehicles.
35. *Cellar.* A room having more than one-half (1/2) of its height below grade.
36. *Child Care.* The process of caring for unrelated minor children as a service with or without financial arrangements. Child care shall include the term "baby-sitting" but shall not include preschools.
37. *Child Care Center.* A day nursery providing care for four (4) or more children for part or all of a day or night away from the home of the parent or legal guardian; and including full day group care, nursery schools, play groups, head start centers giving emphasis to special programming for children, kindergartens not operated by the public schools, and other establishments offering care to groups of children. Such centers shall meet all requirements of the Kansas Department of Health and Environment for licensing.
38. *Clinic.* An establishment where patients who are normally not lodged overnight are admitted for examination and treatment. This does not include Animal Hospitals or Animal Clinics.
39. *Club or Lodge – Private.* A nonprofit association or organization formed for either fraternal, social, educational, philanthropic, or other similar purpose, including professional organizations, unions, and other similar organizations.
40. *Common Open Space.* An area of land or water or combination thereof planned for passive or active recreation, but does not include areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas. However, the area of recreational activities, such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.
41. *Comprehensive Plan.* The duly adopted comprehensive plan for the development of the City of Downs, Kansas.

42. *Condominium.* A multiple-family dwelling structure wherein the separate dwelling units are individually owned as opposed to rental units in an apartment, or units with lots in a townhouse.
43. *Density.* Restrictions on the number of dwelling units that may be constructed per acre or per square foot of a zoning lot area.
44. *Developer.* The legal or beneficial owner or owners of all of the land proposed to be included in a planned development or the duly authorized agent thereof. The holder of an option or contract of purchase, a lessee having a remaining term of not less than forty (40) years, or other person having an enforceable proprietary interest in such land, shall be deemed to be a developer for the purpose of these regulations.
45. *District or Zone.* A section or sections of the City specifically declared within which the regulations governing the use of buildings and premises are uniform.
46. *Dog.* Any canine species over 12 months of age.
47. *Drive-In Service.* A type of retail sales establishment which encourages, recognizes, or permits patrons or customers to call for service by the flashing of lights or by the parking of motor vehicles at a particular place, intended to result in a cash sale and delivery outside of the places of business to such patrons or customers of food or beverage ready and intended for immediate human consumption without cooking or further preparation.
48. *Dump.* A lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning, or any other means, and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.
49. *Dwelling.* Any building or portion thereof which is designed and used primarily for residential purposes.
50. *Dwelling, Attached.* A residential building which is joined to another dwelling at one or more sides by a party wall or walls.
51. *Dwelling, Detached.* A residential building which is entirely surrounded by open space on the same lot.
52. *Dwelling, Multiple-Family.* A building or portion thereof designed with accommodations for or occupied by three (3) or more families living independently of each other who may or may not have joint services or facilities or both. The term includes dormitories and lodging and rooming houses but does not include hotels, motels, and tourist courts.
53. *Dwelling, Seasonal.* A residence intended for occasional occupancy.
54. *Dwelling, Single-Family.* A detached building or portion thereof designed for or occupied exclusively by one (1) family.

55. *Dwelling, Two-Family.* A building or semi-detached building or portion thereof designed or occupied exclusively by two (2) families living independently of each other.
56. *Dwelling Unit.* One or more rooms in a residential building or residential portion of a building which are arranged, designed, used, or intended for use by one (1) family, and which includes cooking space and lawful sanitary facilities reserved for the occupants thereof.
57. *Easement.* A legally defined area of a land parcel which grants right of entry and use for a specifically stated purpose such as utility crossings or drainage.
58. *Escort Agency.* A business which furnishes a person to act as a companion, guide or date for another person and/or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
59. *Exception.* An exception shall mean the allowance of a use within a given district by the Board of Zoning Appeals. Exceptions shall be limited to only those specifically authorized and listed in this Zoning Ordinance.
60. *Family.* Either (a) an individual or two (2) or more persons related by blood, marriage, or adoption living together as a single housekeeping unit in a dwelling unit; or (b) a group of not more than four (4) persons who need not be related by blood, marriage, or adoption living together as a single housekeeping unit in a dwelling unit; plus in either case, domestic servants. A family may include any number of gratuitous guests or minor children not related by blood, marriage, or adoption.
61. *Fence.* A free-standing structure of metal, plastic, masonry, glass, or wood or any combination thereof resting on or partially buried in the ground and rising above ground level and used for confinement, screening, or partition purposes.
62. *Filling Station.* Any building or premises used for dispensing and sale at retail, of any automobile fuels or oils, when the dispensing and sale are the primary activity. Where fuel sales are incidental to convenience merchandise, the premises are classified as a convenience store.
63. *Floodplain.* Land area subject to inundation from surplus storm water as defined by a Housing and Urban Development (HUD) flood insurance study and as depicted on a flood insurance rate map.
64. *Floor Area.* Floor area shall mean the gross floor area of all floors in the building including:
 - a. Stairwells, elevator shafts, and mechanical equipment enclosures, except roof-mounted mechanical equipment.
 - b. Penthouses.

- c. One-half (1/2) the basement floor area.
 - d. Interior balconies and mezzanines.
 - e. Enclosed porches.
 - f. Floor area devoted to accessory uses.
 - g. Interior and exterior walls, except where adjoining units share a common wall. In such case, measurement shall be from the center of the common wall.
65. *Foster Home.* A residence or building in which more than twelve (12) hour care is provided to no more than five (5) children, two or more of which are unrelated to the foster parents. Foster homes shall be permitted in all residential structures, the same as would a family.
66. *Fraternal and/or Service Clubs.* An association formally organized for either fraternal, social, educational, philanthropic, or other similar purposes, including union and professional organizations, and operated not for profit for persons who are bona fide members paying annual dues, which owns, hires, or leases premises, the use of which premises is restricted to such members and their guests. The affairs and management of such association are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting. Food, meals, and beverages may be served on such premises provided adequate dining space and kitchen facilities are available. Alcoholic beverages may be sold or served to members and their guests provided such service is secondary and incidental to the promotion of some other common objective of the organization, and further provided that such sale or service of alcoholic beverages is in compliance with all federal, state, county, and local laws.
67. *Frontage.* The length of the property abutting on one side of a street measured along the dividing line between the property and the street right-of-way.
68. *Garage, Private.* Any accessory building designed or used only for the housing and storage of automobiles which are the property of, or provided for the exclusive use of, the occupants of the lot or premises upon which such building is located and having no provisions for the commercial repair or equipping of such vehicles.
69. *Garage, Public.* Any building, portion of a building, or premises designed, operated, or used for commercial purposes in the storage, sale, hiring, care, or repair of motor vehicles.
70. *Garage, Storage.* A building, or portion thereof, designed or used exclusively for housing four (4) or more motor-driven vehicles.
71. *Gasoline Service Station.* A service station shall consist of a building or group of buildings and surfaced area where automotive vehicles may be refueled and service, self-service pumps without buildings shall also be included. Such service shall not include tire recapping, body repairs, or major overhaul. (Also see "Filling Station")

72. *Governing Body – (Legislative Body)*. Unless otherwise specified, Governing Body shall mean the City Council of the City of Downs, Kansas.
73. *Grade*:
- a. For buildings having walls facing one street only, the elevation of the sidewalk at the center of the wall facing the street shall be the grade.
 - b. For buildings having walls facing more than one street, the grade shall be the average of the grades (as defined in “a” above) of all walls facing each street.
 - c. For buildings having no wall facing a street, the average level of the finished surface of the ground adjacent to the exterior walls of the building shall be the grade.
 - d. Any wall approximately parallel to a street line is considered as facing the street.
74. *Group Homes*. Any dwelling occupied by not more than ten (10) persons, including eight (8) or fewer persons with a disability, who need not be related by blood or marriage and not to exceed two (2) staff residents who need not be related by blood or marriage to each other or to the residents of the home, which dwelling is licensed by a regulatory agency of the state of Kansas.
75. *Home Occupation*. Any lawful activity conducted within the principal building (dwelling) or accessory buildings by members of the immediate family residing on the premises for the purpose of earning income, except as expressly prohibited below, which requires personal appearances by customers or delivery of their personal property at the dwelling for the purpose of providing goods and/or services. Home occupations shall meet all of the following conditions:
- a. The residential character of the property is maintained.
 - b. The activity is conducted in such a manner as not to give an outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term, nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.
 - c. No display or storage shall indicate from the exterior of the buildings that they are being used in part for any purpose other than a dwelling or accessory building.
 - d. Not more than one (1) non-illuminated nameplate is used. The nameplate shall be attached to the building and shall not exceed three (3) square feet in area.
 - e. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses of a person off the lot if the occupation is conducted in a residence, or outside the individual dwelling unit if conducted in other than a residence. In the case of electrical interference, no equipment or process shall be used which creates visual or

audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.

- f. No traffic shall be generated by such home occupation in substantially greater volumes than would normally be expected in a residential neighborhood.
- g. There shall be on file in the office of the City Clerk a consent agreement to the proposed home occupation signed by seventy-five (75) percent of all Owners of property within two hundred (200) feet of the property whereon such use is to be operated.
- h. A letter of consent shall also be required from the owner of record for a property to be used for home occupation purposes. This shall specifically apply to rental properties. This letter of consent shall be submitted with the consent petition required in paragraph "g".
- i. The Owner shall have received from the City of Downs Zoning Appeals Board, a Special Use Permit to operate such home occupation in accordance with the provisions of this Ordinance and other applicable rules and regulations. Such permit shall be personal to the applicant thereof and shall not be assignable.
- j. A Home Occupation Permit shall be reconsidered by the City of Downs Zoning Appeals Board, with regard to revoking the permit if a review petition stating problems regarding the home occupation has been submitted and signed by fifty (50) percent of all owners of property within two hundred (200) feet of the premises whereon the home occupation is conducted.
- k. The following uses shall not in any event be considered home occupations within this definition:
 - 1) Funeral homes.
 - 2) Child care centers.
 - 3) Restaurants.
 - 4) Grocery stores.
 - 5) Stables, animal kennels, or hospitals.
 - 6) Tourist accommodations including bed and breakfast establishments, unless specifically permitted in the district.
 - 7) Renting of trailers or equipment.
 - 8) Auto and other vehicle repair.

76. *Hospital.* An establishment used primarily for inpatient care and to provide health, medical, mental, and surgical care of the sick or injured, excluding animal hospitals.
77. *Hotel or Motel.* A commercial building used as a temporary abiding place for persons who are being lodged for compensation with or without meals.
78. *Institution of Higher Learning.* A college, university, or incorporated academy providing general academic instruction equivalent to the standards prescribed by the State Board of Education. Dormitories, fraternity houses, sorority houses, and other student housing, which are constructed on campus, shall be considered accessory buildings.
79. *Institution (Nonprofit).* A building occupied by a nonprofit corporation or a nonprofit establishment for public use.
80. *Kennel.* Any place, area, building, structure, or enclosure where more than two domesticated animals, commonly considered to be household pets, more than three months old, are boarded, cared for, housed, fed, trained, or bred. This definition includes both private and commercially operated facilities.
81. *Laboratory, Medical.* An establishment which provides bacteriological, biological, medical, X-ray, pathological, and other similar analytical or diagnostic services.
82. *Landscaping.* The improvement of a lot, parcel, or tract of land with grass and shrubs and/or trees. Landscaping may include pedestrian walks, flower beds, and ornamental objects such as fountains, statuary, and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.
83. *Laundry (Self-Service or coin).* An establishment equipped with individual coin-operated washing, drying, or dry cleaning machines.
84. *Laundry.* An establishment where commercial laundry and dry cleaning work is undertaken.
85. *Lodging House.* A residential building or place where lodging is provided (or which is equipped regularly to provide lodging) by pre-arrangement for definite periods, for compensation, for three (3) or more persons in contra-distinction to hotels open to transients.
86. *Lot.* A parcel of land shown as a unit on a recorded subdivision plat.
87. *Lot Area.* The total horizontal area within the lot lines of a lot.
88. *Lot, Corner or External.* A lot abutting upon two (2) or more streets at their intersection and shall be deemed to front on both streets.
89. *Lot Coverage.* The total area of building expressed as a percentage of the total lot, plot, or tract. (Includes both principal and accessory buildings.)

90. *Lot, Depth Of.* A mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lines of the lot.
91. *Lot, Double Frontage.* An internal lot having a frontage on two (2) streets.
92. *Lot, Interior.* Any lot which does not constitute a corner lot.
93. *Lot Line, Front.* A boundary line of a lot which coincides with a street boundary lines. The word "street" as used in this definition shall not include alley.
94. *Lot Line, Rear (Internal).* A boundary line of a lot which does not coincide with a street boundary line but may coincide with an alley line.
95. *Lot Line, Side (Internal).* A boundary line of a lot which does not coincide with a street boundary line. The word "street" as used in this definition does not include alley.
96. *Lot of Record.* A lot which is a part of a subdivision, the map of which has been recorded in the office of the register of deeds, or a lot described by metes and bounds, the description of which was recorded in the office of the register of deeds prior to the adoption of these regulations.
97. *Lot, Reversed Corner.* A corner lot, the rear lot line of which either abuts upon or is directly across an alley from the side lot line of another lot or parcel.
98. *Lot Width.* The mean horizontal distance between the side lot lines, measured at right angles to the lot depth. Where side lot lines are not parallel, the minimum width of a lot shall be measured at the front yard setback line, but in no case shall the front lot line be less than thirty-five (35) feet in width.
99. *Lot Zoning.* A parcel or tract of land used, developed, or built upon as a unit under single ownership or control. Said parcel or tract may consist of one or more lots of record, one or more portions of a lot or lots of record, or any combination thereof.
100. *Manufactured Home.* A factory-built structure or structures equipped with the necessary utility service connections and made so as to be transportable as a unit or units on its or their own running gear and designed to be used as a dwelling unit irrespective of how affixed to the land. The transportation system is designed so that the manufactured home may be moved from time to time. The term shall include two (2) or more separately towed units which, when bolted or otherwise fastened together, form a complete living unit. Such homes are built on a chassis consisting of drawbar and coupling mechanism, frame (e.g., steel I-beams), running gear assembly, and lights. Removal of any or all of these component parts does not change the definition. All manufactured homes shall be either skirted or placed on a permanent-type, enclosed perimeter foundation and, according to standards of the State of Kansas, shall be anchored to the ground. All manufactured homes intended for new installation in the zoning jurisdiction of the City of Downs after the effective date of this ordinance shall bear a certification plate pursuant to the "National

Manufactured Housing Construction and Safety Standards Act of 1974”, 42 U.S.C. 5401 et seq., as amended, and shall be no more than ten (10) years old.

101. *Manufactured Home, Dependent.* A manufactured home which does not have a flush toilet and bath or shower.
102. *Manufactured Home, Independent.* A manufactured home which has a flush toilet and a bath or shower.
103. *Manufactured Home Park.* Any area, parcel, or tract of ground equipped as required for support of manufactured homes and used or intended to be used by two (2) or more occupied manufactured homes. Such manufactured home park shall be under one ownership and control, but under no circumstances shall the manufactured home spaces be sold or offered for sale individually. The term does not include a sales area on which unoccupied manufactured homes, whether new or used, are parked for the purposes of storage, inspection, or sale. A manufactured home may, however, remain on a space for purposes of sale by the resident owner or the manufactured home park owner. No more than fifteen (15) percent of the manufactured homes may be for rent at any one time.
104. *Manufactured Home, Residential Design.* A manufactured home on permanent foundation which has (a) minimum dimensions of twenty-two (22) body feet in width, (b) a pitched roof, and (c) siding and roofing materials which are customarily used on site-built homes.
105. *Medical, Dental, or Health Clinic.* Any building designed for use by one or more persons lawfully engaged in the diagnosis, care, and treatment of physical or mental diseases or ailments of human beings; including, but not limited to, doctors of medicine, dentists, chiropractors, osteopaths, optometrists, psychiatrists, and podiatrists; and in which no patients are lodged overnight.
106. *Mini-Warehouse.* A structure or structures designed to provide secure small individual storage spaces for rent to the public. This may include associated rental open yard storage area for recreational vehicles and other equipment.
107. *Modular Home.* A dwelling structure located on a permanent foundation with permanently connected utilities, consisting of pre-selected, prefabricated units, or modules designed to meet the requirements of the building code, and transported to and/or assembled on the site of its permanent foundation; as opposed to a dwelling structure which is custom built on the site of its permanent location; and also as opposed to a manufactured home, either single-wide, double-wide, or of multiple width.
108. *Motel.* A group of buildings including either separate cabins or a row of connected cabins or rooms which contain individual sleeping accommodations for transient occupancy and which have individual entrances.
109. *Motor Vehicle Repair Shop.* A building or portion of a building, arranged, intended, or designed to be used for making repairs to motor vehicles.

110. *Nonconforming Lot of Record.* A platted lot which does not comply with the lot size requirements for any permitted use in the district in which it is located.
111. *Nonconforming Structure or Use.* A lawfully existing structure or use at the time these Regulations or any amendments thereto became effective which does not conform to the requirements of the zone in which it is located.
112. *Nursing Homes or Convalescent Homes.* An institution or agency licensed by the State for the reception, board, care, or treatment of three or more unrelated individuals, but not including facilities for the care and treatment of mental illness, alcoholism or narcotics.
113. *Parcel.* All contiguous lands (including lots and parts of lots) held in one (1) ownership.
114. *Parking Area, Public or Customer.* An area other than a private parking area, street, or alley, used for parking of automobiles and available for public or semi-public use.
115. *Parking Space.* A surfaced area of not less than two hundred (200) square feet on private or public property, either within or outside a building, suitable in size and location to store one standard automobile.
116. *Paved Parking.* A vehicular parking area which has been surfaced with an applied material, such as concrete or asphalt, which shall be of sufficient quality and consistency to provide a dust-free, all-weather condition.
117. *Permanent Foundation.* A foundation of formed and poured-in-place concrete or masonry units laid up with such reinforcing materials as may be required for quality construction.
118. *Person.* Any natural individual, firm, trust, partnership, association, or corporation.
119. *Place or Court.* An open, unoccupied space, other than a street or alley, permanently reserved as the principal means of access to abutting property.
120. *Planned Development.* A tract of land meeting specified minimum site size whereon all elements of development may be designed as inter-related aspects of an overall improvement concept in accordance with the provisions of these regulations.
121. *Planning Commission.* The City Planning Commission of Downs, Kansas unless otherwise specified.
122. *Plat.* A layout of a subdivision indicating the location and boundaries of individual properties.
123. *Platting.* Whenever the terms platting, platted, or subdivided are used in the Zoning Ordinance, it shall refer to the process established by the duly adopted subdivision regulations of the City of Downs.

124. *Preschool.* A public or privately owned facility with defined curriculum which offers preparatory education for minor children aged 5 years and younger. The term does not include kindergarten.
125. *Premises.* A parcel together with all buildings and structures thereon.
126. *Principal Structure.* The main use of land or structures as distinguished from a subordinate or accessory use.
127. *Private Club.* An association, other than fraternal or service club, organized and operated either for or not for profit for persons who are bona fide members paying annual dues, which owns, hires, or leases premises, the use of which premises is restricted to such members and their guests. The affairs and management of such association are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting. Food, meals, and beverages may be served on such premises provided adequate dining room space and kitchen facilities are available. Alcoholic beverages may be sold or served to members and their guests provided that such sale or service is in compliance with all applicable federal, state, county, and local laws.
128. *Professional Office.* Any building or part thereof used by one or more persons engaged in the practice of law, medicine, accounting, architecture, engineering, or other occupation customarily considered as a profession.
129. *Public Utility.* Any business which furnishes the general public telephone service, electricity, cable television, natural gas, or water and any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state.
130. *Recreational Vehicle.* A vehicle which is self-propelled or towed having living accommodations not designed or intended for year-round habitation.
131. *Recycling Facility.* Any location whose primary use is where waste or scrap materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled or handled, including, but not limited to scrap metals, paper, rags, tires, bottles and other such materials.
132. *Restaurant.* A public eating establishment, including, but not limited to, the types of business establishments customarily referred to as cafeterias, coffee shops, dairy bars, restaurants, and soda fountains, but not a drive-in establishment, unless specified.
133. *Restaurant, Drive-In.* An eating establishment where, for compensation, food is prepared and dispensed having only incidental consumption within the principal building on the premises.
134. *Right-of-Way.* The area of a dedicated street, alley, or other public travelway including railroads.

135. *Rooming House.* A building or portion thereof other than a hotel, motel or bed and breakfast establishment where lodging of three (3) or more persons is provided for compensation.
136. *Salvage Yard.* Any land or building used for the collection, storage or sale of wastepaper, trash, rags, fibrous material, scrap metal, or other discarded material; or for the collecting, dismantling, storage or salvaging of machinery or vehicles not in running condition, or for the sale of parts thereof, or materials from the demolition of buildings or structures. In the agricultural and residential districts, no more than two (2) licensed or unlicensed motor vehicles which are in the process of restoration to operating condition may be stored; provided, however, such vehicles are stored inside a structure or screened from public view.
137. *Sanitary Landfill.* A lot or parcel of land used primarily for the disposal, abandonment, dumping, burial, or burning of garbage, sewage, trash, refuse, junk, discarded machinery, or motor vehicles or parts thereof or other waste and which is in conformance with the requirements of the Kansas Department of Health and Environment.
138. *School.* A public elementary or secondary educational facility which is under direction and control of the State Board of Education and the State Superintendent of Public Instruction and/or a Parochial elementary or secondary educational facility which offers the same general curriculum as that provided by a comparable public educational facility.
139. *Service Station.* An establishment consisting of a building or group of buildings and surfaced area where automotive vehicles may be refueled and serviced; such service shall not include tire recapping, body repairs, or major overhaul. (Also see "Filling Station")
140. *Setback.* The distance between the lot line and building line.
141. *Sign.* Any words, numerals, figures, devices, designs, or trade marks by which anything is made known, such as are used to designate an individual firm, profession, business, or a commodity and which are visible from any public street or air. For various types of signs see ARTICLE XXI.
142. *Sign, Temporary.* Any sign of a material such as cardboard, paper, pressed wood, fiberglass, canvas, plastic or metal which is attached to a fence, tree, utility pole or temporary structure, or any sign which is not securely fastened to a building or firmly anchored to the ground.
143. *Site.* See "Parcel."
144. *Site Triangle.* An area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two-and-one-half (2½) feet and ten (10) feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets, ninety (90) feet in each direction along the centerline of the

streets. At the intersection of major or arterial streets, the ninety (90) foot distance shall be increased to one hundred twenty (120) feet.

145. *Special Use Permit.* A special use permit is a written permit issued by the Zoning Administrator with the written authorization of the Appeals Board. This special use permit provides permission under special conditions to make certain special exception of uses in certain zoning districts as stipulated in the specific district Zoning Regulations.
146. *Story.* That portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it.
147. *Story, Half.* A space under a sloping roof which has the line of intersection of the roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished for use. A half-story containing independent apartment or living quarters shall be counted as a full story.
148. *Street.* A right-of-way, other than an alley, dedicated to the public use, which provides principal access to adjacent properties.
149. *Street Line.* A dividing line between a lot, tract, or parcel of land and the contiguous street.
150. *Street Network.*
 - a. Arterial Street. A street which provides for through traffic movement between and around areas and across the city with direct access to abutting property; subject to necessary control of entrances, exits, and curb uses.
 - b. Collector Street. A street which provides for traffic movement between arterial and local streets with direct access to abutting property.
 - c. Local Street. A street which provides direct access to abutting land and for local traffic movement, whether in business, industrial, or residential areas.

151. *Structure*. Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences, driveways, hard surfaced walk and terraces, or public items, such as utility poles, street light fixtures, and street signs.
152. *Structure, Principle*. A building in which is conducted the principal use of the lot or parcel upon which it is situated. Every dwelling in a residential district is a principle building.
153. *Structure, Accessory*. A building other than the principle building on the same lot or tract with the principle building which is subordinate there to.
154. *Structural Alterations*. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any complete rebuilding of the roof or the exterior walls. For the purpose of these regulations, the following shall not be considered structural alterations.
 - a. Attachment of a new front where structural supports are not changed.
 - b. Addition of fire escapes where structural supports are not changed.
 - c. New windows where lintels and support walls are not materially changed.
 - d. Repair or replacement of non-structural members.
 - e. Alterations for the safety of the building and normal repairs and maintenance.
155. *Subdivision*. The division of a tract of land into one or more lots or parcels for the purpose of transfer of ownership or building development, or, if a new street is involved, any division of a parcel of land. The term subdivision includes re-subdivision, and the term "re-subdivision," as used herein, shall include any further subdivision of a lot or parcel of land previously subdivided for sale, use, or other purpose which varies from the latest, approved subdivision of the same. See the land Subdivision Regulations.
156. *Subdivision Plat*. A plan or map prepared in accordance with the provisions of the duly adopted Subdivision Regulations and recorded with the Register of Deeds.
157. *Tavern*. An establishment in which the primary function is the public sale and serving of cereal malt beverages.
158. *Theater, Moving Picture*. A building or part of a building devoted to the showing of moving pictures on a paid admission basis.
159. *Theater, Outdoor Drive-In*. An open lot or part thereof with its appurtenant facilities devoted primarily to the showing of moving pictures or theatrical productions on a paid admission basis to patrons seated in automobiles or on outdoor seats.

160. *These Regulations.* The document duly approved and adopted by the Planning Commission and the City Council of Downs, Kansas, which establishes zoning requirements.
161. *Tourist Cabins.* See "Motel."
162. *Tourist Home.* A dwelling in which overnight accommodations are provided or offered for transient guests for compensation.
163. *Townhouse.* A multiple-family dwelling unit which is individually owned along with a lot or other tract of land, as opposed to a condominium.
164. *Tract.* A plot or parcel of land other than a lot in a subdivision which is recorded in the office of the Register of Deeds.
165. *Use.* Any purpose for which a structure or a tract of land may be designed, arranged, intended, maintained, or occupied; also, any activity, occupation, business, or operation carried on, or intended to be carried on, in a structure or on a tract of land.
166. *Use Regulations.* The provisions of these Regulations which identify permitted, special and conditional uses, impose use limitations, and regulate accessory and temporary uses and home occupations.
167. *Variance.* A modification or variation of the provisions of these Regulations, as applied to a specific parcel of property, as distinct from rezoning.
168. *Warehouse.* A building or part of a building intended, designed and utilized primarily for storage.
169. *Way.* A street, an alley or other thoroughfare or easement permanently established for passage of persons or vehicles.
170. *Wireless Communications Tower.* A structure designed to provide elevation for radio, television, mobile telephone and similar electronic sending and receiving antennas. This does not include single whip CB radio and similar small electronics equipment antennas.
171. *Yard.* An open space on the same lot with a principle building. In Article XXV additional Height Area and Use Regulations, except as otherwise provided herein. In measuring a yard, the depth of the front yard or the depth of the rear yard, the minimum horizontal distance between the lot line and the main building shall be used.
172. *Yard, Front.* A yard extending along a full length of a front lot line and back to a line drawn parallel to the front lot line at a distance therefrom equal to the depth of the required front yard. On a corner lot, each yard that abuts a street shall be considered a front yard.

173. *Yard, Rear.* A yard extending along the full length of the rear lot line and back to a line drawn parallel to the rear lot line at a distance therefrom equal to the depth of the required rear yard.
174. *Yard, Side.* A yard extending along a side lot line and back to a line drawn parallel to the side lot line at a distance therefrom equal to the width of a required minimum side yard, but excluding any area encompassed within a front yard or rear yard.
175. *Zone or District.* A portion, area, or section of the Downs, Kansas zoning jurisdiction for which uniform regulations governing the use, height, area, size, and intensity of use of buildings, land, and open spaces about buildings are herein established.
176. *Zoning Administrator.* The person or persons authorized and empowered by the Governing Body having jurisdiction to administer the requirements of these Zoning Regulations.
177. *Zoning Area.* The area to be zoned as set out on the Official Zoning Map filed of record.
178. *Zoning Regulations.* The term zoning regulations or this or these regulations shall mean the requirements stipulated in the regulations herewith attached.

SECTION 2. Words or terms not herein defined shall have their ordinary meaning in relation to the context.