

PART 12

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CHAPTER 1

PLANNING COMMISSION

Section 12-101	Planning Commission created, membership.
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Section 12-104	Powers of Zoning Commission.

SECTION 12-101 PLANNING COMMISSION CREATED, MEMBERSHIP.

A town planning commission is hereby created for the town. It shall consist of five (5) appointive members, all of whom shall be electors of the town and the mayor and town engineer as ex officio members. The five (5) appointive members shall be nominated by the mayor and appointed by the board of trustees, and shall serve for terms of three (3) years. Vacancies shall be filled for the unexpired terms. The members shall serve without compensation. The board of trustees may remove members of the town planning commission for cause.

SECTION 12-102 ORGANIZATION, MEETINGS, OFFICERS & EMPLOYEES.

The planning commission shall elect a chairman, a vice-chairman and a secretary who shall serve for one year terms. The secretary need not be a member of the commission. The commission shall determine the time and place of its regular meetings. The chairman, the mayor or any three (3) members may call special meetings of the commission. The commission may employ engineers, attorneys, clerks, and other help deemed necessary, subject to the approval of the board of trustees. Their salaries and compensation shall be fixed by the board of trustees, and shall be paid out of the town treasury as other salaries and compensation are paid. The necessary legal expenses of the planning commission shall be paid out of the town treasury as other legal expenses of the town government are paid.

SECTION 12-103 POWERS AND DUTIES.

The planning commission shall have all the powers and duties prescribed for it by state law and all other powers and duties now or hereafter prescribed for it by any other provisions of town or state law. In addition, the planning commission shall have such other power and duties as authorized by motion, resolution or ordinance of the Board of Trustees of the Town of Sperry.

SECTION 12-104 POWERS OF ZONING COMMISSION.

A. The planning commission is also appointed as the zoning commission of the town. The planning commission shall have the powers of a zoning commission as provided by state law. Whether exercising the powers of a planning commission or the powers of a zoning commission, it shall be legally one board, known as the town planning commission.

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B. Exercising the powers of a zoning commission, the town planning commission shall recommend the boundaries of the various zones and appropriate zoning regulations to be enforced therein. It shall have all the powers conferred upon a zoning commission by state law and all powers which now or in the future may be granted by applicable state law to such authorities.

CHAPTER 2

BOARD OF ADJUSTMENT

Section 12-201	Board of Adjustment created, membership.
Section 12-202	Powers of the Board of Adjustment.
Section 12-203	Proceedings of the Board of Adjustment.
Section 12-204	Notice and Hearings.
Section 12-205	Procedure for Appeals to the Board of Adjustment.
Section 12-206	Application, Appeal and fees.
Section 12-207	Appeals to the District Court.

SECTION 12-201 BOARD OF ADJUSTMENT CREATED, MEMBERSHIP.

A Board of Adjustment is hereby created for the Town of Sperry, with the powers and duties as hereinafter set forth. The Board of Adjustment shall consist of five (5) members who shall be residents of the Town of Sperry and appointments shall be made by the Town Board of Trustees. Each member shall serve for a term of three (3) years and vacancies shall be filled for an unexpired term of any member whose office becomes vacant.

The Board of Adjustment shall elect a chairman, a vice-chairman and secretary who shall serve one year terms.

A member of the Board of Adjustment may be removed for cause by the Board of Trustees upon written charges and public hearing for any of the following causes:

1. Failure to attend three consecutive regular or special meetings, or failure to attend two-thirds of the regular or special meetings held during any six-month period;
2. Actions and conduct unbecoming to a public official of the Town of Sperry;
3. Repeated acts and conduct detrimental to the peace, health, safety and welfare of the citizens of the Town of Sperry.

SECTION 12-202 POWERS OF THE BOARD OF ADJUSTMENT.

The Board of Adjustment shall have the powers as set forth in 11 O.S. § 44-104 and as otherwise provided by state law; and the extent of relief which can be granted is as set forth in 11 O.S. § 105, and all other such duties and powers shall be as directed by resolution or ordinance of the Board of Trustees of the Town of Sperry.

The concurring vote of at least three members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination being appealed from, to decide in favor of the applicant, or decide any matter which may properly come before it pursuant to the zoning code of the town and 11 O.S. § 44-104.

SECTION 12-203 PROCEEDINGS OF THE BOARD OF ADJUSTMENT.

Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence the acting chairman may administer oaths and compel the attendance of witnesses. The Board of Adjustment shall be subject to the open meeting laws of the state and all meetings, deliberations and voting of the board shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of all official actions, all of which shall be immediately filed in the office of the Board of Adjustment and the Office of the Town Clerk and shall be public record.

SECTION 12-204 NOTICE AND HEARINGS.

Notice of a public hearing before the Board of Adjustment shall be given by publication in a newspaper of general circulation in the municipality where the property is located and by mailing written notice by the clerk of the board of adjustment to all owners of property within a three hundred (300) foot radius of the exterior boundary of the subject property. Notice shall be published and mailed at least ten (10) days prior to the hearing.

The notice, whether by publication or mail, of a public hearing before the Board of Adjustment shall contain:

1. The legal description of the property and the street address or approximate location in the municipality;
2. Present zoning classification of the property and the nature of the appeal, variance or exception requested; and
3. Date, time and place of the hearing.

On hearings involving minor variances or exceptions, notice shall be given by the clerk of the Board of Adjustment by mailing written notice to all owners of property adjacent to the subject property. The notice shall be mailed at least ten (10) days prior to the hearing and shall contain the facts listed above in numericals 1, 2 and 3 of this section. The Board of Adjustment shall set forth in a statement of policy what constitutes minor variances or exceptions, subject to approval or amendment by the Board of Trustees of the Town of Sperry.

SECTION 12-205 PROCEDURE FOR APPEALS TO THE BOARD
ADJUSTMENT.

Appeals from the action of any administrative officer, including the building inspector acting pursuant to any zoning ordinance to the Board of Adjustment shall be in the following manner:

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1. An appeal may be taken by any person aggrieved by an action or decision of an administrative officer of the Town acting pursuant to the zoning code, or by any officer, department, board or bureau of the Town of Sperry affected by any decision of the administrative officer;

2. An appeal shall be taken within twenty (20) days by filing with the officer from whom the appeal is taken and by filing with the Board of Adjustment through the Town Clerk a notice of appeal specifying the grounds therefore. The officer from whom the appeal is taken shall transmit to the Board of Adjustment certified copies of all of the papers constituting the record of the matter, together with a copy of the ruling or order from which the appeal is taken.

3. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal has been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. In such case the proceedings shall not be stayed otherwise than by restraining order which may be granted by the Board of Adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and an due cause shown; and

4. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to all parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

SECTION 12-206 APPLICATION, APPEAL AND FEES.

An appeal may be taken by the filing of an application for appeal and notice of appeal from a decision of an administrative officer acting pursuant to the zoning code requesting a variance, special exception or some other relief which can be lawfully granted by the Board of Adjustment and remitting an Appeal fee of \$50.00. In addition, the applicant shall pay for all actual costs of publication and postage.

SECTION 12-207 APPEALS TO THE DISTRICT COURT.

1. An appeal from any action, decision, ruling, judgment or order of the board of adjustment may be taken by any person or persons, jointly or severally aggrieved, or any taxpayer or any officer, department board of bureau of the Town of Sperry to the district Court in the county where the situs of the Town of Sperry is located.

2. The appeal shall be taken by filing with the Town Clerk and with the clerk of the Board of Adjustment, within ten business days after the action, decision, ruling, judgment or order of the Board of Adjustment, a notice of appeal. The notice shall specify the grounds for the appeal. No bond or deposit for costs shall be required for such appeal.

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3. Upon filing the notice of appeal, the Board of Adjustment shall forthwith transmit to the Court Clerk the original, or certified copies of all papers constituting the record in the case, together with the order, decision or ruling of the board.

4. The appeal shall be heard and tried *de novo* in the district court.

5. An appeal to the district court from the Board of Adjustment stays all proceedings in furtherance of the action appealed from, unless the chairman of the board certifies to the Court Clerk, after the notice of appeal has been filed, that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the district court upon application or notice to the administrative officer in charge of the enforcement of the terms and provisions of the ordinance, and upon notice to the chairman of the Board of Adjustment, and upon due cause being shown.

6. The district court may reverse or affirm, wholly or partly, or modify the decision brought up for review. Costs shall not be allowed against the Board of Adjustment unless it shall appear to the district court that the board acted with gross negligence or in bad faith or with malice in making the decision appealed from. An appeal shall lie from the action of the district court as in all other civil actions.

CHAPTER 3

ZONING REGULATIONS

Section 12-301 Zoning Regulations Adopted.
Section 12-302 Penalty.

SECTION 12-301 ZONING REGULATIONS ADOPTED.

The “Sperry Zoning Ordinance” also known as the Zoning Code of the Town of Sperry, 1976, as adopted by Ordinance 1976-10, effective September 1, 1976, and all amendments thereto, are hereby adopted and incorporated herein by reference, applicable to the town as if set out at length herein. A copy of the town’s zoning code and all amendments thereto are on file in the office of the Town Clerk.

SECTION 12-302 PENALTY.

Any violation of the town’s zoning ordinance, code, amendments or regulations, is punishable as provided in Section 1-108 of this code. Each day that such violation exists is a separate offense. In addition, the Town may institute legal action in order to remedy any violation of the town’s zoning code or ordinance in order to bring the offending party into compliance with the zoning code of the Town of Sperry.

CHAPTER 4

SUBDIVISION REGULATIONS.

Section 12-401 Subdivision regulations adopted.
Section 12-402 Penalty.

SECTION 12-401 SUBDIVISION REGULATIONS ADOPTED.

The “Sperry Subdivision Ordinance”, adopted by the Town of Sperry in Ordinance 1981-4, Adopted September 14, 1981, and also referred to as “Subdivision Regulations for the Town of Sperry, Oklahoma”, and all amendments thereto, are hereby adopted and incorporated herein by reference as if fully set forth herein. A copy of the Subdivision Regulations and all amendments are on file in the Office of the Town Clerk.

SECTION 12-402 PENALTY.

Any violation of the town’s subdivision regulations is punishable as provided in Section 1-108 of this code. Each day that such violation exists is a separate offense. In addition, the Town may institute legal action in order to remedy any violation of the subdivision regulations in order the bring the offending party into compliance with the subdivision regulations.

CHAPTER 5

MOBILE HOME, MANUFACTURED HOME
AND MODULAR HOUSING REGULATIONS

- Section 12-501 Mobile Home and Manufactured Home regulations adopted.
Section 12-502 Modular Housing regulations adopted.
Section 12-503 Occupancy of Recreational Vehicles and Camping Trailers as
Dwellings prohibited.

SECTION 12-501 MOBILE HOME AND MANUFACTURED HOME
REGULATIONS ADOPTED.

A. The use and occupancy or location of mobile and manufactured homes as dwellings is prohibited in all areas of the Town of Sperry, Oklahoma, except those areas now existing, or hereafter designated, as Residential Mobile Home Parks (RMH).

B. A “mobile home” or “manufactured home” shall be defined, with relation to the Code of Ordinances of the Town of Sperry, to mean any portable structure or vehicle designed primarily for human occupancy thereof as a dwelling which is transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to required utilities.

C. Mobile or manufactured homes in place as of the 10th day of July, 2008, shall be entitled to remain as nonconforming uses. However, if such nonconforming mobile or manufactured home is removed from the lot or premises on which it sits, it shall not be replaced with another mobile or manufactured home, unless the lot or premises is zoned Residential Mobile Home Parks (RMH). In all other cases, the nonconforming use provisions of the Zoning Code of the Town of Sperry, Oklahoma, shall apply.

D. Mobile or Manufactured homes must be factory-manufactured, enhance the property and must be tied down and skirted as approved by the Town Building Inspector.

SECTION 12-502 MODULAR HOUSING REGULATIONS ADOPTED.

A. Modular Housing is hereby defined to be a wood framed and supported structure designed and constructed in one or more components, sections or units to be joined into one integral unit and permanently attached and affixed on a permanent foundation, to be occupied as single family dwelling unit, which components, sections or units are pre-built at a location other than the permanent site and which are capable of being conveyed or transported on streets or highways by being towed by another vehicle upon wheels, chassis, or trailer temporarily attached solely for purposes of transporting the same to its permanent site; that when joined, assembled or completed constitutes a

structure that is in full compliance with all Town of Sperry, Oklahoma code requirements applicable to site-constructed single family dwellings, and classified under the Town of Sperry, Oklahoma residential zoning designation.

B. Newly constructed "Modular Housing," as herein defined, shall be allowed in all zoning classifications within the Town of Sperry, Oklahoma, where single or multi-family dwellings may be located, whether by right or special exception whichever the case may be.

C. A building permit must be obtained for the construction or erection of Modular Housing as required for the construction of any other dwelling as provided in the Code of Ordinances of the Town of Sperry, Oklahoma.

SECTION 12-503 OCCUPANCY OF RECREATIONAL VEHICLES AND
CAMPING TRAILERS AS DWELLINGS PROHIBITED.

The use or occupancy of a recreational vehicle or camping trailer as dwellings or places of residence, whether temporarily or permanently, is prohibited and is an offense. The terms "recreational vehicle" and "camping trailer" shall be defined to mean those vehicles and trailers which are customarily used for camping and recreational use and are not designed for use as a permanent residence and are affixed to a frame resting on an axle or axles which can be moved by utilizing wheels which remain affixed.

CHAPTER 6

FLOOD DAMAGE PREVENTION

Section 12-601	Statutory Authorization.
Section 12-602	Findings of Fact.
Section 12-603	Statement of Purpose.
Section 12-604	Methods of Reducing Flood Losses.
Section 12-605	Definitions.
Section 12-606	Lands to which these regulations apply.
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Section 12-618	Provision for Flood Hazard Reduction : Specific Standards.
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Section 12-620	Floodways.
Section 12-621	Penalties for noncompliance.

SECTION 12-601 STATUTORY AUTHORIZATION.

The Legislature of the State of Oklahoma has in 82 O.S. §§1601-1618, as amended, Chapter 23 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses.

SECTION 12-602 FINDINGS OF FACT.

(1) The flood hazard areas of the Town of Sperry are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

SECTION 12-603 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is in a flood area.

SECTION 12-604 METHODS OF REDUCING FLOOD LOSSES

1. In order to accomplish its purposes, these regulations use the following methods:
2. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
3. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
4. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
5. Control filling, grading, dredging and other development which may increase flood damage;
6. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

SECTION 12-605 DEFINITIONS.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

ACCESSORY STRUCTURE - Structures which are on the same parcel of property as the principle structure and the use of which is incidental to the use of the principle structure (such as garages and storage sheds).

AREA OF SPECIAL FLOOD HAZARD - is the land in the floodplain within the Town of Sperry subject to a one percent or greater chance of flooding in any given year. This area is normally identified by the terms Zone A or Zone AE.

BASE FLOOD - means the flood having a one percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION - means the elevation above mean sea level of the base flood.

BASEMENT - means any area of the building having its floor sub-grade (below ground level) on all sides.

BOARD – means the Oklahoma Water Resources Board.

CRITICAL FEATURE - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT - means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING - means a non-basement building built, in the case of a building in Zones A, AE and X, to have the top of the elevated floor adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In the case of Zones A, AE and X, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

EXISTING CONSTRUCTION - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION- means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD OR FLOODING - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM) - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY - is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the floodway information.

FLOODPLAIN ADMINISTRATOR – means a person accredited by the Board and designated by a floodplain board or community, to administer and implement laws and regulations relating to the management of the floodplains.

FLOODPLAIN OR FLOOD-PRONE AREA - means any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOODPLAIN MANAGEMENT - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD PROTECTION SYSTEM - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOODWAY (REGULATORY FLOODWAY) - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FUNCTIONALLY DEPENDENT USE - means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
 - a) By an approved state program as determined by the Secretary of the Interior or;
 - b) Directly by the Secretary of the Interior in states without approved programs.

LEVEE - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM - means a flood protection system, which consists of a levee, or levees, and associated structures, such as closure, and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; **provided** that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

MANUFACTURED HOME - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

RECREATIONAL VEHICLE - means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

START OF CONSTRUCTION - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE - means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures that have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or
2. Any alteration of a "historic structure" provided that the alteration would not preclude the structure's continued designation as a "historic structure."

VARIANCE - is a grant of relief to a person from the requirement of this chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this chapter. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

VIOLATION - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10) or (d)(3) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

SECTION 12-606 LANDS TO WHICH THESE REGULATIONS APPLY.

This Chapter 6 shall apply to all areas of special flood hazard within the jurisdiction of the Town of Sperry, Oklahoma.

SECTION 12-607 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for Tulsa County, Oklahoma and Incorporated Areas" dated August 3, 2009, with accompanying Flood Insurance Rate Map (FIRM) are hereby referenced and declared to be a part of this chapter. Also, the areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for Osage County, Oklahoma and Incorporated Areas" dated April 2, 2008, with accompanying Flood Insurance Rate Map (FIRM) are hereby referenced and declared to be part of this chapter.

SECTION 12-608 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A Development Permit shall be required to ensure conformance with the provisions of this chapter.

SECTION 12-609 COMPLIANCE.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this chapter and other applicable regulations.

SECTION 12-610 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION 12-611 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION 12-612 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Sperry or any official or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

SECTION 12-613 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.

The Town Administrator is hereby appointed the Floodplain Administrator to administer and implement the provisions of this chapter and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management. In the absence of the Town Administrator, the Board of Trustees may designate a qualified person to act as Floodplain Administrator.

SECTION 12-614 DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
2. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.

Planning, Zoning and Development

3. Review, approve or deny all applications for development permits required by Section 12-608 of this code.
4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval are required.
5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Town of Sperry Floodplain Administrator shall make the necessary interpretation.
6. Notify, in riverine situations, adjacent communities and the Oklahoma Water Resources Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
8. When base flood elevation data has not been provided in accordance with Section 12-607, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Sections 12-617 through 12-619.
9. When a regulatory floodway has not been designated, the Town of Sperry Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A and AE on the Tulsa County FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the Town of Sperry.
10. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, the Town of Sperry may approve certain development in Zones A or AE on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the Town of Sperry **first** applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).
11. Become accredited by the Board in accordance with Title 82 O.S. §§ 1601-1618, as amended.

12. After a disaster or other type of damage occurrence to structures in the Town of Sperry, determine if the residential & non-residential structures & manufactured homes have been substantially damaged and enforce the substantial improvement requirement.

SECTION 12-615 PERMIT PROCEDURES.

Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

1.
 - a. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
 - b. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
 - c. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 12-618.
 - d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
 - e. Maintain a record of all such information in accordance with this chapter.
2. Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
 - a. The danger to life and property due to flooding or erosion damage;
 - b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - c. The danger that materials may be swept onto other lands to the injury of others;
 - d. The compatibility of the proposed use with existing and anticipated development;
 - e. The safety of access to the property in times of flood for ordinary and emergency vehicles;

- f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- g. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- h. The necessity to the facility of a waterfront location, where applicable;
- i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- j. The relationship of the proposed use to the comprehensive plan for that area.

SECTION 12-616 VARIANCES.

1. General provisions.

a. The Board of Trustees or Appeal Board may grant variances for uses which do not satisfy the requirements of the Oklahoma Floodplain Management Act or these regulations, if the applicant for the variance presents adequate proof that (i) compliance with these regulations will result in an arbitrary and unreasonable taking of property without sufficient benefit or advantage to the people and (ii) satisfies the pertinent provisions of this Section.. However, provided no variance shall be granted where the effect of the variance will be to permit the continuance of a condition which unreasonably creates flooding hazards.

b. Any variance so granted shall not be construed as to relieve any person who receives it from any liability imposed by the Oklahoma Floodplain Management Act or by other laws of the state.

c. In no case shall variances be effective for a period longer than twenty (20) years.

d. Any person seeking a variance shall file a petition with the Town of Sperry, accompanied by a filing fee of Twenty-five Dollars (\$25.00).

e. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 12-615(2) and provisions of this Section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

f. Any person seeking a variance to build a structure below the base flood elevation will be issued a notice signed by the Sperry Floodplain Administrator which states that (i) the cost of flood insurance will be commensurate with the increased risk resulting from permitting the structure to be built lower than the base flood elevation, and (ii) such construction below the base flood level increases risks to life and property.

g. At such time as the Floodplain Administrator deems the petition ready for notification to the public, the Floodplain Administrator shall schedule a hearing and direct the applicant to publish notice thereof in a newspaper of general circulation in Tulsa County at least thirty (30) days prior to the hearing.

h. The Floodplain Administrator shall conduct the hearing and make determinations in accordance with the applicable provisions of this Section. The Floodplain Administrator shall exercise wide discretion in weighing the equities involved and the advantages and disadvantages to the applicant and to the public at large when determining whether the variance shall be granted.

i. Variances shall only be issued upon:

- (1) A showing of good and sufficient cause;
- (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
- (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws, regulations or ordinances; and
- (4) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

j. Upon consideration of the factors stated in this Section D and the intent of these regulations, the Floodplain Administrator may attach such conditions to the granting of a variance as it deems necessary to further the purposes and objectives stated in Section 12-603.

k. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance; and a copy of any variance issued by the Town of Sperry shall be sent by the Floodplain Administrator to the OWRB and FEMA within fifteen (15) days after issuance of the variance.

2. Special provisions.

a. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of these regulations.

b. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

c. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

d. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

- (1) The criteria of Section 12-616(1)(e); Section 12-616(1)(i); Section 12-616(2)(b); and Section 12-616(2)(c) are met, and
- (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

SECTION 12-617 PROVISIONS FOR FLOOD HAZARD REDUCTION:
GENERAL STANDARDS

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SECTION 12-618 PROVISIONS FOR FLOOD HAZARD REDUCTION:
SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Section 12-607, (ii) Section 12-614(8), or (iii) Section 12-619(3), the following provisions are required:

1. **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated one at least one (1) foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Section 12-615(1) a., is satisfied.
2. **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall have the lowest floor (including basement) elevated at least one (1) foot above the base flood level. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Section 12-615(1) (b), is satisfied.
3. **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- b) The bottom of all openings shall be no higher than one foot above grade.
- c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. Manufactured Homes -

- a) Require that all manufactured homes allowed to be placed within the Town of Sperry in its Zone A or AE areas as shown on the Tulsa County FIRM shall be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated so that the bottom of the I-Beam is elevated at least one (1) foot above the base flood elevation and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. An elevation certificate is required to be provided to the floodplain administrator to verify this requirement has been met.
- b) Require that manufactured homes that are placed or substantially improved within Zone AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the bottom of the I-Beam of the manufactured home is elevated at least one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. An elevation certificate is required to be provided to the floodplain administrator to verify this requirement has been met.

5. Recreational Vehicles - Require that recreational vehicles placed on sites within Zones A and AE on the Tulsa County FIRM either:

- a) Be on the site for fewer than 180 consecutive days,
- b) Be fully licensed and ready for highway use, or

- c) Meet the permit requirements of Section 12-615, and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

6. Accessory Structure –

- a) Structure is low valued and represents a minimal investment.
- b) Structure shall be small and not exceed 600 square feet in size.
- c) Structure shall be unfinished on the interior.
- d) Structure can be used only for parking and limited storage.
- e) Structure shall not be used for human habitation (including work, sleeping, living, cooking, or restroom areas).
- f) Service facilities such as electrical and heating equipment must be elevated to or above the BFE or floodproofed.
- g) Structure is constructed and placed on building site so as to offer the minimum resistance to the flow of floodwaters.
- h) Structure is designed to have low flood damage potential i.e. constructed with flood resistance materials.
- i) Structure is firmly anchored to prevent flotation, collapse, and lateral movement.
- j) Floodway requirements must be met in the construction of the structure.
- k) Openings to relieve hydrostatic pressure during a flood shall be provided below the BFE.
- l) Structure is to be located so as not to cause damage to adjacent and nearby structures.

SECTION 12-619 STANDARDS FOR SUBDIVISION PROPOSALS

- 1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Sections 12-602, 12-603 and 12-604 of this chapter.

2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of Section 12-608, Section 12-615; and the provisions of Sections 12-617 through 12-620 of this chapter.
3. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Section 12-607 or Section 12-614(8) of this chapter.
4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

SECTION 12-620 FLOODWAYS.

Floodways - located within areas of special flood hazard established in Section 12-607, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. If Section 12-620(1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 12-617, 12-618 12-619 and 12-620..
3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community **first** applies for a conditional FIRM and floodway revision through FEMA.

SECTION 12-621 PENALTIES FOR NONCOMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter 6 and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor and shall be punishable as provided in the Code of Ordinances of the Town of Sperry, Oklahoma . Any person who violates or refuses to comply with any of the provisions of this chapter shall be punished as provided in Section 1-108 of the Sperry Town Code. Nothing herein contained shall prevent the Town of Sperry from taking such other lawful action as is necessary to prevent or remedy any violation of this chapter as set forth in Section 1-111 of the Code of Ordinances.