

TITLE 16

ZONING

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16.04 GENERAL PROVISIONS

16.04.010 - Short Title. The Town of Colton has and does hereby elect to exercise the authority granted to municipalities in Article XI, Section 11 of the Washington State Constitution and to do planning and zoning under said section. To that end, this chapter shall be known as the "Zoning Chapter of the Town of Colton."

16.04.020 - Zoning Map Adopted - - Interpretation. This title shall consist of the text hereof, as well as that certain map identified by the approving signature of the Mayor and the Town Clerk, designated "The map of the Zoning Ordinance of the Town of Colton," which said map is on file in the office of the Town Clerk of this Town, and is hereby adopted and made a part of this title, and this title, and all of its terms are to be read and interpreted in the light of said map. In the event any conflicts shall arise between the map and the text of this ordinance, the text of the ordinance shall prevail.

16.08 DEFINITIONS

16.08.010 - Family. "Family" is hereby defined to mean "any number of persons related by blood; no more than four unrelated persons living together as a single housekeeping unit and doing their cooking on the premises. Adopted persons shall be deemed to be related by blood to their parents and to the blood relatives of their adopted parents. A husband and wife shall be deemed to be one person, provided that no more than two sets of husbands and wives shall occupy the same dwelling, as permanent residents at the same time.

16.08.020 - Accessory Buildings or Structures. "Accessory buildings or structures" means building or structures which are secondary to and associated with a primary single family structure.

16.08.030 - Low Cost Housing. "Low cost housing" shall mean any housing the construction cost of which does not exceed \$50,000.00.

16.08.040 - Construction Cost. "Construction cost" means the cost of actual construction of any foundation and above ground construction to the point where the structure meets the requirement for a final occupancy permit for human occupancy, excluding applicable sales tax, building permit fee, inspection fees, utility hook-up fees, and landscaping costs.

16.08.050 - Manufacture Home. "Manufactured home" shall have the same meaning as such term as defined in Washington Administrative Code, Section 296-150M-0020 (three copies of which are on file in the Town Clerk's Office for public inspection) but such definition shall not include factory built homes.

16.08.060 - Factory Built Home. "Factory build home" means any structure designed primarily for human occupancy other than a manufactured home structure or any room of which is either entirely or substantially pre-fabricated or assembled at a place other than a building site.

16.12 PROHIBITED USE

16.12.010 - Real Property. The use of real property within a zone for any use or purpose other than that allowed in the zone in which such real property is situated is hereby prohibited.

16.16 DISTRICTS ESTABLISHED

16.16.010 - Designated Districts. For the purposes of this chapter, the Town of Colton is hereby divided into four (4) districts or zones, to be designated as: 1) Industrial Zone, 2) Commercial Zone, 3) Residential-Low Cost Zone, and 4) Residential-Other Zone.

16.16.020 - Industrial Zone Area. Commencing at the southeast corner of section twenty-seven, township thirty north, range forty-five, EWM, thence easterly along section line to the northeast corner of the northwest quarter of the northwest quarter of Section thirty-five, township thirteen north, range forty-five EWM, thence southerly along the quarter line to the center of Union Flat Creek, thence northwesterly along the center of Union Flat Creek to the center of Vulcan Street, thence westerly along the center of Vulcan Street to the center of Gregor Street, thence northerly along the center line of Gregor Street and Gregor Street extended to the center of Union Flat Creek, thence westerly along the center of Union Flat Creek to the center line of section thirty-four, thence northerly along said center line to the southerly boundary of section twenty-seven, thence easterly along said southerly boundary to the place of beginning.

16.16.030 - Commercial Zone Area. Commencing at the intersection of north boundary of primary state highway, with the center line of section thirty four, township thirteen north, range forty five EWM, thence northerly along said center line a distance of three hundred forty feet, thence easterly parallel with the state highway and distance there from three hundred forty feet to Vulcan Street, and thence easterly along the center of Vulcan Street to the center of Union Flat Creek, thence south easterly along the center of Union Flat Creek to where it is intersected by Fountain Street. Thence, westerly parallel with said state highway and distance from three hundred forty feet to the center line of said section thirty four, thence northerly along said center line to the place of beginning.

16.16.040 - Residential zone - - Low Cost Area. The Residential-Low Cost Zone shall include and embrace all of the following described area, to-wit:

A tract of land situated in the west half of the northwest quarter of Section thirty-five, Township thirteen north, range forty-five east, W.M., and in the northeast quarter of Section thirty-four, Township thirteen north, range forty-five east, W.M., described as follows:

Beginning at the southwest corner of Lot 7, Block 1, Colton; thence easterly along the south line of said Block 1 and said line extended a distance of six hundred sixty feet; thence north along the west line of Lake Street a distance of three hundred feet; thence west along the south line of Depot Street a distance of five hundred fifty feet to the northwest corner of Lot 4, Block 1, Becker's north half block addition to Colton; thence south along the west line of said lot four to the southwest corner of said lot four, thence west along the south line of lots five and six to the southwest corner of lot six; thence south to the point of beginning.

16.16.050 - Residential Zone - - Other Area. The Residential-Other Zone shall include and embrace all the area within the corporate limits of the Town of Colton, except the areas zoned as Industrial, Commercial, or Residential-Low Cost Zone.

As used in this chapter, the term "Residential Zone," except when specifically referring to "Residential-Low Cost Zone or Area," or "Residential-Other Zone or Area," shall be applicable to both the Residential-Low Cost Zone and the Residential-Other Zone. As used in this chapter, the term "Low Cost" shall have the meaning set forth in Section 16.08.030 for Low Cost Housing.

16.20 RESIDENTIAL - OTHER

16.20.010 - Permitted Uses. In the Residential Other Zone, no building or premises shall hereafter be used, and no building shall hereafter be erected or structurally altered, unless otherwise provided for herein, except for one or more of the following uses:

- a) Single Family Dwellings.
- b) Accessory Buildings or Structures.

- c) No repair shop, service station or business shall be conducted therein.
- d) The office of a physician, dentist or other professional person, when located within his or her dwelling, also home occupations engaged in by individuals within their dwellings, provided, that no separate building shall be so used and no window display advertising the presence of such occupation may be displayed, except a sign not exceeding two square feet in area which shall bear only the name and occupation of the occupant.
- e) Signs not exceeding six square feet in an area, advertising for sale, for lease, or for rent, the property upon which they stand.
- f) Municipal Buildings.
- g) Nothing herein contained shall be deemed to prohibit the use of vacant property for private gardening or fruit growing.
- h) No travel trailer shall be used as a place of habitation, but may be stored in an accessory structure or on the property. Mobile homes or factory built homes shall not be deemed as a travel trailer within the meaning of this chapter.

16.20.020 - Height Restrictions. The eaves of accessory buildings or structures shall not exceed ten (10) feet in height between said eaves at the point thereof farthest distance from the ground directly under the eaves. All accessory buildings or structures shall maintain the same residential character of the primary structure. An accessory building or structure shall be located on the same lot as the primary residential structure, or if on a different lot than the primary residential structure, shall be situated not more than forty (40) feet from the primary residential structure. If an accessory building or structure is situated on a lot different from that of the primary residential structure to which it is accessory, said accessory building or structure and said primary residential structure must have identical common ownership.

16.20.030 - Lot Size. The total area of any accessory building or structure shall not exceed one thousand (1000) square feet, calculated using the exterior dimensions of such building or structure unless a variance has been issued for a larger accessory building or structure by the Town Council after receiving the recommendation of the Building Advisory Board. The said Building Advisory Board shall advise the Council of its findings related to such request and recommendation to either approve or deny the request for a large structure and such conditions therefore, if the recommendation is for approval, as the said Advisory Board believes will meet the purposes to be served by this chapter.

16.20.040 - Conditional Use. The following additional uses of property or premises within the residential zone may be permitted by resolution of the Town Council, upon written application for a variance, for such use being made, accompanied by complete plans and specification of any proposed structures, when in the opinion of the Town Council such use will not be unduly detrimental to adjacent or surrounding property:

- a) Duplexes, or two-family dwellings

- b) Libraries, museums, or art galleries
- c) Private conservatories for plants and flowers
- d) Telephone exchanges, or electric sub-stations
- e) Rest homes or nursing homes
- f) Churches or schools
- g) Parks or playgrounds, including park buildings.

16.20.050 - Lot Requirements. Every building hereafter erected or structurally altered which is located within the Residential Zone shall provide a lot area with a minimum width of 50 feet and depth of 100 feet, or in case of irregularly shaped lots or lots of less than the platted width as shown by the last conveyance record, an area of at least 5000 square feet.

No building or structure or part thereof shall be erected or maintained closer than 20 feet from the front property line, or closer than a of 5 feet to the side of the property line.

Buildings hereafter erected or structurally altered upon a corner lot shall be set back a **minimum of 20 feet** from the front and side lines of said lot.

Garages or other accessory structures constructed or erected more than 60 feet back from the front line of the lot will not be required to be set back but may be built on the lot line; provided that no part of the eaves or other roof overhand shall extend over the property line.

16.24 RESIDENTIAL-LOW COST

16.24.010 - Permitted Uses. In the Residential-Low Cost Zone, only single family residences, the construction cost of which does not exceed \$50,000.00, except that manufactured homes having at least 1000 square feet of area shall be permitted, in a Residential-Low Cost Zone, irrespective of the cost of such manufactured home. From and after March 9, 1992, manufactured homes having at least 1000 square feet of area shall be permitted in areas designated for low cost housing by the Town Council.

16.24.020 - Calculating Costs. If the seller of a factory built home pays for the cost of transporting a factory built home in whole or part from any location, to the home site, with no additional charge therefore assessed to the purchaser, the reasonable value of the portion of the cost of such transportation paid for by the seller shall be excluded from the cost of said structure in determining the construction cost. The cost of installation of a factory built home at a home site to make a factory built home eligible for an occupancy permit shall included construction cost of such factory built home.

16.24.030 - Manufactured Homes Less than 1000 Square Feet. Manufactured homes having less than 1000 square feet shall be permitted only in trailer courts or manufactured home courts. In measuring the square footage the outside width and

length excluding towing arms and hitches shall be multiplied. The resulting product shall be deemed to be the square footage of the structure.

16.28

MANUFACTURED HOME SITES

16.28.010 - Purpose. The provisions established in this chapter are intended to assure that the site of manufactured homes is harmonious with surrounding residential uses and preserves the general character and integrity of the neighborhood.

16.28.020 - Site Standards. All manufactured homes shall be installed in compliance with applicable city and county codes. In addition, manufactured homes installed in the residential districts, not in mobile home parks, may be required to meet the following site standards:

1. Roofing materials and roof slope shall be compatible in appearance with surrounding site-built homes.
2. Siding materials shall be wood, masonite, or other material compatible with surrounding site-built homes.
3. The manufactured home must meet all requirements for elimination of title, for the manufactured home to be taxed as real property.
4. The manufactured home must be placed on a permanent foundation and cannot be removed from the land unless the procedures set forth in RCW 65.20.070 are met.

16.32

COMMERCIAL ZONE

16.32.010 - Permitted Uses. All uses permitted in the Residential-Other Zone shall be permissible, subject to all of the rules and regulations relating to the use within the Commercial Zone and on the same terms and conditions, and with the same space and yard requirements specified for the Residential-Other Zone.

No building or premises shall hereafter be used and no building shall hereafter be erected or structurally altered, unless otherwise herein provided, except for one or more of the following purposes:

- a) Retail stores and shops, such as are usually needed to serve a residential community.
- b) Business or professional offices or studios.

The use of real property or premises within the Commercial District for any purpose or use not herein specifically mentioned is hereby prohibited.

16.32.020 - Variance from Setback Requirements. The Town Council shall delegate its authority to grant a variance from the setback requirements for all buildings hereafter erected or altered within the Commercial Zone. A public hearing will hold before the Council grants a variance.

16.36 INDUSTRIAL ZONE

16.36.010 - Permitted Uses. All uses permitted in the Residential Zones and the Commercial Zone shall be permissible in the Industrial Zone and in addition, any industrial use not prohibited by law shall be permissible.

16.36.020 - Building Areas. The Town Council shall fix reasonable regulations as to the front, side and rear areas for all buildings hereafter erected or altered within the Industrial Zone.

16.40 VARIANCES

16.40.010 - Granting When. Variances from the requirements set forth in this chapter may be made by the Town Council. The following provisions shall apply to the granting of any such variances:

- a) any variances granted by the Town Council shall be granted by resolution and shall be subject to such conditions as will assure that the adjustment thereby made shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated. No variance shall be granted unless the following circumstances are found to apply:
 - 1) Because of special circumstances applicable to the subject property including size, shape, topography, location, or surroundings the strict application of the zoning ordinance is found to deprive the subject property of rights and privileges enjoyed by other properties in the vicinity and under the identical zone classification.
 - 2) That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and the zone in which the subject property is situated.

16.40.020 - Application Requirements. Applications for a variance shall be in writing and shall state in detail the nature of the variance requested and the reasons why a variance should be granted. Said application shall also contain the names and addresses of property owners holding record title to all property within a radius of 300 feet of the exterior boundaries of the subject property, as the owners thereof appear on the Whitman County Tax Rolls. At the time of filing an application for a variance the applicant shall pay the Town Clerk a minimum filing fee of \$60.00 which shall be deposited into the general fund of the Town. Provided, should the Mayor hereafter determine that the minimum filing fee is inadequate to defray the administrative costs

of the Town in processing such application, mailing the notices provided for herein, publishing the notices provided from herein, and paying other costs associated with such application and hearing thereon, the Mayor is authorized to increase the filing fee from time to time, by written notice to the Town Clerk for all such applications thereafter, filed to such sum that the Mayor determines shall defray the reasonable costs of the Town occasioned by such application. Provided, should the Mayor increase the filing fee, he shall notify the Council in writing within ten days of each such increase. Provided still further, failure to notify the Council shall not affect the validity of any such increase. Nothing herein shall prevent or preclude the Council from changing the filing fee at any time by ordinance or resolution, irrespective of any increase thereof, by the Mayor.

16.40.030 - Setting Date for Hearing - - Notice. Upon receiving an application for variance and the filing fee, therefore the Town Clerk shall set a date for hearing thereon which may be at regularly scheduled meeting of the Town Council and which shall not be more than sixty days from the date of filing the application for variance. Not less than 12 days prior to the hearing on said application the Town Clerk shall mail a notice of hearing thereon, which notice shall be addressed through the United States Mail to all property owners of record, within a radius of three hundred feet of the exterior boundaries of the subject property. Not less than 20 days prior to said hearing, excluding the date of publication, the Town Clerk shall also publish a notice of the hearing thereon in the official newspaper of the Town.

16.40.040 - Town Council Decision. At the time and place fixed for the hearing on said variance the Town Council shall hear all of those desiring to speak for or against the variance. Following the hearing, but not later than the next succeeding regular meeting of the Town Council, the Town Council shall enter written findings and either grant the application in whole or in part or deny the application.

16.40.050 - Appeals from Town Council Decision. The action of the Town Council on all matter coming before it with reference to a variance shall be final and conclusive unless within ten days after the Town Council has entered its written findings and decision, the original applicant or an adverse party makes application to the Superior Court of Whitman County for a Writ Certiorari, a Writ of Prohibition, or a Writ of Mandamus. In the event such application is filed, all matter pertaining to the application for variance shall be stayed pending termination of a final order entered by a court of competent jurisdiction.

16.40.060 - Strict Compliance. No variance shall be granted without complying with each and every one of the requirements of this chapter including but not limited to the notice provisions hereof and the conducting of a public hearing thereon as in Section 16.40.030.

16.44

PRIOR EXISTING PLANS

16.44.010 - No Requirement to Amend. Nothing contained in this title shall require any change in the plans, construction, designated or intended use of a building for which a permit has heretofore been issued.

16.48

CRITICAL AREAS PROTECTION

16.48.010 - Purpose, Intent and Applicability. The purpose of this chapter is to designate, classify and protect the functions and values of critical areas in a manner consistent with State law while allowing for reasonable use of private property. By adopting this section, the Town of Colton acknowledges that critical areas provide a variety of important biological and physical functions that benefit the community and its residents, or that they may pose a threat to human safety or property.

The Critical Area Overlay Zone consists of that area within 250' of designated wetlands and critical wildlife habitat. Aquifer recharge areas, geologically hazardous areas (25' buffer) and frequently flooded areas (with Zone A or AE as shown on National Flood Insurance Program maps) are also included. Any development proposed on a parcel of land within the Critical Area Overlay Zone shall be subject to project review as required in this section unless specifically exempted.

16.48.020 - Definitions.

Advance mitigation: Mitigation of an anticipated critical area impact or hazard completed according to an approved critical area report and prior to site development.

Alteration, critical area: Any human induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to grading, filling, channelizing, dredging, clearing (vegetation), construction, compaction, excavation or any other activity that changes the character of the critical area.

Applicant: A person who files an application for permit under this ordinance and who is either the owner of the land on which that proposed activity would be located, a lessee of the land, the person who would actually control and direct the proposed activity or the authorized agent of such a person.

Aquifer Recharge Areas: Aquifer Recharge Areas are areas having a critical recharging effect on aquifers used for potable water where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the certifiable potability of water (WAC 365.190.030).

Aquifer, sole source: An area designated by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, Section 1424(e). The aquifer(s) must supply fifty percent (50%) or more of the drinking water for an area without a sufficient replacement available.

Area of shallow flooding: An area designated AO, or AH Zone on the flood insurance map(s). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

Base flood: A flood event having a one percent (1%) chance of being equaled or exceeded in any given year, also referred to as the 100-year flood. Designations of base flood areas on flood insurance map(s) always include the letters A or V.

Best available science: Current scientific information used in the process to designate, protect, or restore critical areas, that is derived from a valid scientific process as defined by WAC 365-195-900 through 925. Sources of best available science are included in "Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas" published by the state Office of Community Development.

Best management practices: Conservation practices or systems of practices and management measures that control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, and sediment; minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of wetlands; protect trees and vegetation designated to be retained during and following site construction; and provide standards for proper use of chemical herbicides within critical areas.

Conservation easement: A legal agreement that the property owner enters into to restrict uses of the land. Such restrictions can include, but are not limited to, passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property, therefore, providing permanent or long-term protection.

Critical aquifer recharge area (CARA): Areas designated by WAC 365-190-080(2) that are determined to have a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). (See Aquifer recharge area).

Critical Habitat: Habitat necessary for the survival of endangered, threatened, rare, sensitive or monitor species.

Data Maps: That series of maps maintained by the Town or it's referenced repository for the purpose of graphically depicting the boundaries of critical areas.

Developable area: A site or portion of site that may be utilized as the location of development.

Development: Any activity upon the land consisting of construction or alteration of structures, earth movement, dredging, dumping, grading, filling, mining, removal of any sand, gravel, or minerals, driving of piles, drilling operations, bulkheading, clearing of vegetation, or other land disturbance. Development includes the storage or use of equipment or materials inconsistent with the existing use. Development also includes approvals issued by the Town that binds land to specific patterns of use, including but not limited to, subdivisions, short subdivisions, zone changes, conditional use permits, and binding site plans. Development activity does not include the following activities:

- Interior building improvements.
- Exterior structure maintenance activities, including painting and roofing.
- Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding.
- Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells; individual utility service connections; and individual cemetery plots in established and approved cemeteries.

Erosion hazard areas: At least those areas identified by the United States Department of Agriculture Soil Conservation Service as a "severe" rill and inter-rill erosion hazard and may experience severe to very severe erosion (WAC 365-190-030(5)).

Flood insurance map: The official map on which the Federal Insurance Administration has delineated the areas of special flood hazards and include the risk premium zones applicable to the community. Also known as "flood insurance rate map" or "FIRM."

Flood plain: The total land area adjoining a river, stream, watercourse or lake subject to inundation by the base flood.

Frequently flooded areas: Lands in the flood plain subject to a one percent (1%) or greater chance of flooding in any given year. Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property as designated by WAC 365-190-080(3). Classifications of frequently flooded areas include, at a minimum, the 100-year flood plain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

Functions and values: The beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, ground water recharge and

discharge, erosion control, wave attenuation, protection from hazards, historical and archaeological and aesthetic value protection, and recreation. These beneficial roles are not listed in order of priority.

Geologically hazardous areas: Areas that because of their susceptibility to erosion, sliding, earthquake, or other geographical events, may not be suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

Ground water: Water in a saturated zone or stratum beneath the surface of land or a surface water body.

Landslide hazard areas: Areas potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.

Long term commercial significance: The growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

Mitigation: A negotiated action involving the avoidance, reduction or compensation for possible adverse impacts. In the following order of preference this includes:

- (a) Avoiding the impacts altogether by not taking action;
- (b) Reducing or eliminating impacts by preservation or maintenance;
- (c) Minimizing impacts by limiting degree or magnitude;
- (d) Rectifying impacts by repairing, rehabilitating or restoring;
- (e) Compensating for impacts by in kind replacement; or
- (f) Monitoring impacts by a planned evaluation process.

Monitoring: Evaluating the impacts of development proposals on the biological, hydrological, and geological elements of such systems and assessing the performance of required mitigation measures throughout the collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features, and includes gathering baseline data.

Native vegetation: Plant species that are indigenous to the area in question.

Off-site compensation: To replace critical areas away from the site on which a critical area has been impacted.

On-site compensation: To replace critical areas at or adjacent to the site on which a critical areas has been impacted.

Permeability: The capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer or confining bed and is independent of the force causing movement.

Porous soil types: Soils, as identified by the National Resources Conservation Service, U.S. Department of Agriculture, that contain voids, pores, interstices or other openings which allow the passing of water.

Potable water: Water that is safe and palatable for human consumption.

Priority habitat and species (PHS): As classified by the Department of Fish and Wildlife Priority Habitats and Species Program, Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance including State Endangered, Threatened, Sensitive, and Candidate species; animal aggregations considered vulnerable; and those species of recreational, commercial, or tribal importance that are vulnerable. Priority habitats are those of habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. The PHS List is a catalog of habitats and species considered to be priorities for conservation and management. (WAC 173-26-020(34)).

Project area: All areas within fifty (50) feet of the area proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures.

Qualified professional: A person with experience and training in the applicable critical area. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology or related field, and two years of related work experience.

- A qualified professional for habitats or wetlands must have a degree in biology and professional experience related to the subject species.
- A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.
- A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

Restoration: Measures taken to restore an altered or damaged natural feature including:

- (A) Active steps taken to restore damaged wetlands, streams, protected habitat, or their buffers to the functioning condition that existed prior to an unauthorized alteration; and
- (B) Actions performed to reestablish structural and functional characteristics of the critical area that have been lost by alteration, past management activities, or catastrophic events.

Seismic hazard areas: Areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, or soil liquefaction.

SEPA: Washington State Environmental Policy Act, Chapter 43.21C RCW.

Special flood hazard areas: The land in the flood plain within an area subject to a one percent (1%) or greater chance of flooding in any given year. Designations of special flood hazard areas on flood insurance map(s) always include the letters A or V.

Special protection areas: Aquifer recharge areas defined by WAC 173-200-090 that requires special consideration or increased protection because of unique characteristics, including, but not limited to:

- A. Ground waters that support an ecological system requiring more stringent criteria than drinking water standards;
- B. Ground water recharge areas and wellhead protection areas, that are vulnerable to pollution because of hydrogeologic characteristics; and
- C. Sole source aquifer status.

Species, endangered: Any fish or wildlife species that is threatened with extinction throughout all or a significant portion of its range and is listed by the state or federal government as an endangered species.

Species of local importance: Those species of local concern due to their population status or their sensitivity to habitat manipulation, or that are game species.

Species, priority: Any fish or wildlife species requiring protective measures and/or management guidelines to ensure their persistence as genetically viable population levels as classified by the Department of Fish and Wildlife, including endangered, threatened, sensitive, candidate and monitor species, and those of recreational, commercial, or tribal importance.

Species, threatened: Any fish or wildlife species that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range without cooperative management or removal of threats, and is listed by the state or federal government as a threatened species.

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

Urban growth: Growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

Water table: That surface in an unconfined aquifer at which the pressure is atmospheric. It is defined by the levels at which water stands in wells that penetrate the aquifer just far enough to hold standing water.

Well: A bored, drilled or driven shaft, or a dug hole whose depth is greater than the largest surface dimension for the purpose of withdrawing or injecting water or other liquids.

Wetland or wetlands: Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands (RCW 36.70A.030(21)).

Wetland, emergent: A regulated wetland with at least thirty percent (30%) of the surface area covered by erect, rooted, herbaceous vegetation extending above the water surface as the uppermost vegetative strata.

Wetlands, high quality: Those wetlands that meet the following criteria:

No, or isolated, human alteration of the wetland topography; No human-caused alteration of the hydrology or the wetland appears to have recovered from the alteration; Low cover and frequency of exotic plant species; Relatively little human-related disturbance of the native vegetation, or recovery from past disturbance; If the wetland system is degraded, it still contains a viable and high quality example of a native wetland community; and no known major water quality problems.

Wetlands, isolated: Those wetlands that are outside of and not contiguous to any 100-year flood plain of a lake, river, or stream, and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water.

16.48.030 - Permitted, Conditional and Prohibited Uses. Uses allowed outright or by conditional use permit or uses altogether prohibited in the Critical Areas Overlay Zone shall be the same as those listed in the underlying zoning district.

16.48.040 - Project Review Required. A. Land use or building permits for clearing or development activities within the Critical Areas Overlay Zone, as defined on the data maps (Section 16.48.100, below), shall be subject to review under the provisions of this chapter, excepting: (1) those activities specifically exempted in Subsection C, below; and (2), agricultural activities. Agricultural activities shall be exempt from review under this chapter.

B. For those projects determined by the Town Building Official or designee likely to have an impact to the critical areas, the applicant shall submit a technical study identifying the precise limits of the critical area and its function and resource value as part of the application. The study shall be prepared by experts with demonstrated qualifications in the area of concern and shall apply best available science as part of its analysis.

C. The following activities shall be allowed in critical areas without a Critical Areas Permit, provided they are conducted using best management practices and at a time, and are conducted in a manner designed to minimize adverse impacts to the critical area:

- 1) Conservation or preservation of soil, water, vegetation, fish, shellfish and other wildlife;
- 2) Outdoor recreational activities which do not involve disturbance of the resource or site area, including, for example, fishing, hunting, bird watching, hiking, horseback riding and bicycling;
- 3) Harvesting wild crops in a manner that is not injurious to the natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops or alteration of the resource by changing existing topography, vegetation, water conditions or water sources;
- 4) Education, scientific research and use of nature trails;
- 5) Normal and routine maintenance of legally constructed irrigation and drainage ditches;
- 6) Normal and routine maintenance, repair or operation of existing serviceable structures, facilities or improved areas, not including expansion, change in character or scope or construction of a maintenance road;
- 7) Minor modification (such as construction of a patio, balcony or second story) of existing serviceable structures where the modification does not adversely impact the functions of the critical area.

D. Applicants shall be required to demonstrate that development on a site determined to have critical areas will protect the resources by taking one of the following steps (listed in order of preference):

- 1) Avoid impacts to the resource altogether.
- 2) Minimize the impact by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.
- 3) Rectify the impact by repairing, rehabilitating or restoring the affected environment to the conditions existing at the time of the initiation of the project.
- 4) Reduce or eliminate the impact over time by preservation or providing substitute resources or environments.
- 5) Compensate for the impact by replacing, enhancing or providing substitute resources or environments.
- 6) Monitor the impact and take appropriate corrective steps.

E. If a development permit is sought for critical area property that is located partly in the Town, and partly in unincorporated Whitman County, the Town Building Official or designee shall coordinate the Town's review of the project with the appropriate County officials.

16.48.050 - Wetlands. A. The existence of a wetland and the location of its boundary (as designated in the National Wetlands Inventory) shall be determined by the applicant through the performance of a field investigation applying the Washington Department of Ecology's wetland rating system. Qualified professionals shall perform wetland determinations and delineations using an acceptable methodology.

B. A wetland containing features satisfying the criteria of more than one of the following categories shall be classified in the highest applicable category. A wetland can be classified into more than one category when distinct areas that clearly meet the criteria of separate categories exist. Wetland rating categories shall be applied as the wetland exists at the time of the adoption of this Chapter or as it exists at the time of an associated permit application. Wetland rating categories shall not change due to illegal modifications. Wetland rating categories shall be as follows:

Eastern Washington Wetland Rating Categories:

Category I: 1) those areas identified by the Washington Natural Heritage Program/DNR as high quality, relatively undisturbed wetlands, or wetlands that support state Threatened or Endangered plant species; 2) alkali wetlands; 3) bogs; 4) mature and old-growth forested wetlands over ¼ acre in size dominated by slow-growing native trees; 5) forested wetlands with stands of Aspen; or 6) wetlands that perform many functions very well. Category I wetlands represent a unique or rare wetland type, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain some ecological attributes that are impossible to replace within a human lifetime, or provide a very

high level of functions.

Category II: 1) forested wetlands in the channel migration zone of rivers; 2) mature forested wetlands containing fast growing trees; 3) vernal pools present within a mosaic of other wetlands; or 4) wetlands with a moderately high level of functions. These wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a high level of protection.

Category III: 1) vernal pools that are isolated; or 2) wetlands with a moderate level of functions. Generally, wetlands in this category have been disturbed in some way, and are often smaller, less diverse and/or more isolated in the landscape than Category II wetlands. They may not need as much protection as Category I and II wetlands.

Category IV: wetlands have the lowest levels of functions and are often heavily disturbed. These are wetlands that should be replaceable, and in some cases may be improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands do provide some important functions and should be protected to some degree.

(as specified in *Washington State Wetland Rating System for Eastern Washington - Revised*, Ecology Publication #04-06-015 or as updated)

C. Development near wetlands shall observe buffers from the edge of the wetland. No development or activity shall occur within the required buffers unless the applicant can demonstrate that the proposed use or activity will not degrade the functions and values of the wetland and other critical areas according to the evaluation criteria from Subsection E, below. In no case shall any development or activity be permitted closer to the edge of the wetland than within one-half of the required setback. For the purposes of this section, these buffers shall be as follows:

Wetland Category	Buffer
Category I Wetland	250 feet
Category II Wetland	200 feet
Category III Wetland	150 feet
Category IV Wetland	50 feet

D. Buffer zones may be increased if the Town Council finds, on a case-by-case basis and based upon best available science, that at least one of the following applies:

1. A larger buffer is necessary to maintain viable populations of existing species, or
2. The wetlands are used by species proposed or listed by the federal government or the State as endangered, threatened, rare, sensitive or being monitored as habitat for those species or has unusual nesting or resting sites, or
3. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts, or
4. The adjacent land has minimal vegetative cover or slopes greater than 25%.

E. Buffer zones may be decreased by no more than fifty (50%) if the Town Council finds, on a case-by-case basis and based upon best available science, that all of the following apply:

1. The critical area report provides a sound rationale for a reduced buffer, and
2. The existing buffer area is well-vegetated with native species and has less than 10% slopes, and
3. No direct or indirect, short-term or long-term adverse impact to the wetland will result from the proposed activity.

F. Wetland buffer areas may be used for conservation and restoration activities, passive recreation (including trails, wildlife viewing structures & fishing access areas) and stormwater management facilities.

G. If activities will result in the loss or degradation of a regulated wetland or buffer, a mitigation or enhancement plan prepared by a qualified expert shall be submitted for review and approval by the Town Building Official or designee. Any mitigation or replacement wetland shall follow the recommended minimum guidelines specified by the Department of Ecology. (*Department of Ecology's Wetland Mitigation in Washington State, Part 2: Developing Mitigation Plans, Version 1, Publication #06-06-011b, March 2006 or as updated*)

16.48.060 - Aquifer Protection Areas. A. In areas designated as high susceptibility for aquifer contamination, all uses shall be connected to the Town's sewer system. No new uses on a septic system are permitted in high susceptibility areas of critical aquifer recharge.

B. For uses locating within the critical aquifer recharge area and requiring site plan review, a disclosure form indicating activities and hazardous materials that will be used shall be provided for review and approval.

C. Impervious surfaces shall be minimized within the critical aquifer recharge area.

D. Best management practices as defined by state and federal regulations shall be followed by commercial and industrial uses located in the critical aquifer recharge areas to ensure that potential contaminants do not reach the aquifer.

E. A spill prevention and emergency response plan shall be prepared and submitted for review and approval by the Town and local Fire District.

16.48.070 - Critical Wildlife Habitat. A. The applicant for development proposed in the Critical Areas Overlay Zone that may impact habitat conservation areas shall provide a habitat management plan, prepared by a qualified expert in the species in question, in conformance with Washington State Department of Fish and Wildlife requirements, for evaluation by local, state and federal agencies (as identified by the United States Fish and Wildlife Service, the National Marine Fisheries Service, the Washington State Department of Fish and Wildlife, and the Department of Natural Resources).

B. The habitat management plan shall be based on best available science and best management practices and shall be designed to achieve specific habitat objectives and shall include, at a minimum:

1. A detailed description of vegetation on and adjacent to the project area,
2. Identification of any species of local importance, priority species, or endangered, threatened, sensitive or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species,
3. A discussion of any federal, state or local special management recommendations, including Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area,
4. A detailed discussion of the potential impact on habitat by the project, including potential impact of water quality,
5. A discussion of measures, including avoidance, minimization and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity,
6. A discussion of continuing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

C. A habitat conservation area may be altered only if the proposed alteration of the habitat or the mitigation proposed does not degrade the functions and values of the habitat.

D. Non-indigenous plant, wildlife or fish species to the region shall not be introduced into a habitat conservation area unless authorized by a state or federal permit or approval.

E. The habitat management plan shall address the project area of the proposed activity, all habitat conservation areas and recommended buffers within 300 feet of the project areas and all other critical areas within 300 feet of the project area.

16.48.080 - Frequently Flooded Areas. Applicants for development within frequently flooded areas shall comply with provisions of the Town's flood damage prevention ordinance.

16.48.090 - Geologically Hazardous Areas. A. A minimum 25-foot buffer shall be established from the top, toe or sides of an identified geological hazard (as identified by the US Geological Survey and the Department of Natural Resources), including landslide hazard areas, seismic hazard areas, mine hazard areas, landfills or steep slope areas (40% or greater), except as specified below. The buffer may be increased if necessary to protect public health, safety and welfare, based on information contained in geotechnical report prepared by a qualified professional engineer.

B. Buffer zones may be decreased in size provided the geotechnical report substantiates the following findings:

1. The proposed development will not create a hazard to the subject property, surrounding properties or rights of way, erosion or sedimentation to off-site properties or bodies of water.
2. The proposal uses construction techniques that minimize destruction of existing topography and natural vegetation.
3. The proposal mitigates all impacts identified in the geotechnical report.

C. The following activities are allowed in seismic and mine hazard areas:

1. Construction of new buildings with less than 2,500 square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly,
2. Additions to existing single-story residences that are 250 square feet or less,
3. Installation of fences.

16.48.100 - Data Maps. A. Critical areas shall be designated on a series of data maps and contain the best available graphic depiction of critical areas. These maps are for information and illustrative purposes only and are not regulatory in nature. Copies of these maps shall be available for public reference at the Town Clerk's office.

B. The critical areas data map are intended to alert the development community, appraisers, current and prospective property owners of a potential encounter with a use or development limiting factor based on the natural systems. The presence of a critical area or resource designation on the data maps is sufficient foundation for the designated Town official to order an analysis of the factor(s) identified prior to acceptance of a development application as being complete and ready for processing under the applicable ordinances of the Town of Colton.

C. Interpretation of Data Maps.

1. The designated Town Building Official or designee is hereby declared the Administrator of this ordinance for the purpose of interpreting data maps. An affected property owner or other party with standing has a right to appeal the administrative determination to the Town Council.

2. The data maps are to be used as a general guide to the location and extent of critical areas. Critical areas indicated on the data maps are presumed to exist in the locations shown and are protected under all the provisions of this chapter. The exact location of critical areas shall be determined by the applicant as a result of field investigations performed by qualified professionals using the definitions found in this chapter. All development applications are required to show the boundary(s) of all critical areas on a scaled drawing prior to the development application being considered "complete" for processing purposes.

D. Application of Data Maps. The conclusion of the administrative authority that a parcel of land or a part of parcel of land that is the subject of a proposed development application is within the boundary(s) of one or more critical areas as shown on the data maps, shall serve as cause for additional investigation and analysis to be conducted by the applicant. The site-specific analysis shall be limited to those critical areas indicated on the data maps. In the event of multiple designations, the Town will address each subject matter independently and collectively for the purpose of determining development limitations and appropriate mitigating measures.

16.48.110 - Relief. If application of the requirements in this section would deny all reasonable economic use of the lot, development will be permitted if the applicant demonstrates all of the following to the satisfaction of the Town Building Official or designee as part of the critical area permit, and demonstrates all findings required for variance from provisions of the zoning ordinance:

A. There is no other reasonable use or feasible alternative to the proposed development with less impact on the critical area.

B. The proposed development does not pose a threat to the public health, safety, and welfare on or off of the subject property.

C. Any alterations permitted to the requirements of this section shall be the minimum necessary to allow for reasonable use of the property.

D. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant in subdividing the property or adjusting a boundary line and creating the undevelopable condition after the effective date of this section.

E. The proposal mitigates the impact on the critical areas to the maximum extent possible.

16.52

DAY CARE FACILITIES

16.52.010 - Purpose. The Council finds that affordable, good quality, and licensed child day care within the Town of Colton is critical to the well-being of parents and children in the community and is a needed community service. Further, it is the purpose of this chapter to facilitate the siting of licensed child day care facilities in the

Town of Colton in a manner which simplifies the review and approval process while ensuring conformance with the surrounding land uses.

16.52.020 - Definitions. For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

- A. "Child Day Care" means the provision of supplemental parental care and supervision:
 - 1. for a non-related child or children;
 - 2. on a regular basis,
 - 3. for less than 24 hours a day, and
 - 4. under license by the Washington State Department of Social and Health Services.

As used in this chapter, the term is not intended to include babysitting services of a casual, non-recurring nature or in the child's own home. Likewise, the term is not intended to include cooperative, reciprocative child care by a group of parents in their respective homes.

- B. "Child Day Care Facility" means a building or structure in which an agency, person, or persons regularly provide care for a group of children for periods of less than 24 hours a day. Child day care facilities include family day care homes, out-of-home child mini-day care centers, and child day care centers regulated by the Washington State Department of Social and Health Services, as presently defined and hereafter amended (RCW 74.15, WAC 338-73-422).

16.52.030 - Family Day Care Home. A family day care home shall be permitted by right in all zoning districts permitting residences and shall be subject to the following requirements:

- 1. Meet Washington State child day care licensing requirements;
- 2. Comply with all building, fire safety, health code, and business licensing requirements;
- 3. Lot size, building size, setbacks, and lot coverage conform to the standards of the zoning district except if the structure is a legal nonconforming structure;
- 4. A filing of a child day care registration form with the Town s provided for in Section 16.52.060 of this chapter;
- 5. No structural or decorative alteration which will alter the single-family character of an existing or proposed residential structure or be incompatible with surrounding residences is permitted.

16.52.040 - Child Mini-Day Care. A. Child mini-day care center (not located in the residence of the care provider). A child mini-day care center not located in the residence of the care provider is allowed in the designated zoning districts as follows:

1. Zoning Districts (Single-Family Residential and Two-Family Residential). A child mini-day care center not located in the residence of the care provider shall be permitted by (Administrative Review).

B. Notice: Notice of the proposal shall be given as provided below:

1. Notices shall be posted on site and in two (2) other conspicuous locations in the vicinity of site at least ten (10) calendar days prior to final action on the application;
2. The notice shall include a description of the proposal, site location, deadline for submitting written comments, and the address and phone number of the Planning Department of the Town of Colton;

C. Administrative Review Requirements.

The (Planning Director Building Official) shall review applications for a mini-day care center not located in the residence of the care provider in (zones which allow for single-family and two-family residential structures) and may approve, or deny the application subject to the following requirements:

- i) Meet Washington State child care licensing requirements;
- ii) Comply with all building, fire safety, health code, and business licensing requirements;
- iii) Filing of a child day care registration form with the Town as provided for in Section 16.52.060 of this chapter;
- iv) The site must be landscaped in a manner compatible with the residential character of the surrounding neighborhood;
- v) The child mini-day care center shall not be located within 300 feet of another child mini-day care center not located in the residence of the care provider or child day care center. Any child day care center which is an accessory use pursuant to Section 16.52.050(D) of this chapter shall be excluded;

D. All Other Zoning Districts: A child care center not located in the residence of the care provider is permitted by right in all other zoning districts provided the conditions set forth in Section 16.52.040(C)(1) through (C)(v) are met.

16.52.050 - Child Day Care Center. A child day care center may be allowed in the designated zoning districts as follows:

- A. Zoning Districts (Single-Family Residential and Two Family Residential). A child day care center may be allowed in these zoning districts only upon issuance of a Conditional Use Permit (pursuant to Section _____ of the municipal code).
 1. Conditional Use Permit Requirements.
 - A. Meet Washington State child day care licensing requirements;
 - B. Comply with all building, fire safety, health code, and business licensing requirements;
 - C. Lot size, building size, setbacks and lot coverage conform to those applicable to the zoning district;

- D. Signage, if any, will conform to the requirements for the applicable zoning district;
- E. Filing of a child day care registration form with the Town as provided for in Section 16.52.060 of this chapter;
- F. A fence at least four (4) feet high must be installed around the play yard;
- G. The site must be landscaped in a manner compatible with adjacent residences;
- H. No structural or decorative alteration which will alter the residential character of an existing residential structure used for a child day care center is permitted. Any new or remodeled structure must be designed to be compatible with the residential character of the surrounding neighborhood.
- I. The child day care center shall not be located within 300 feet of another child day care center or child mini-day care center not located in the residence of the care provider, excluding any child day care center which is an accessory use pursuant to Section 16.52.050(D) of this chapter.
- B. All Other Zoning Districts. A child day care center is permitted by right in all other zoning districts subject to the following requirements:
 - 1. Meet Washington State child day care licensing requirements;
 - 2. Comply with all building, fire safety, traffic safety, health code, and business licensing requirements;
 - 3. Setbacks, screening, landscaping, lot size, building size, and lot coverage shall conform to the pertinent portions of the zoning code;
 - 4. Filing of a child day care registration form with the Town as provided for in Section 16.52.060 of this chapter.

16.52.060 - Registration. Each child day care service provider must register with the Town Planning Department by completing a child day care registration form as provided by the department prior to initiation of the use. Upon registration, the child day care provider must be able to demonstrate compliance with the applicable conditions of this chapter.

16.52.070 - Contradictions. In the event of conflict between this chapter and any other chapter or zoning provision for the Town of Colton the provisions of this chapter shall prevail.