



CITY OF  
**West Linn**

**STAFF REPORT  
FOR THE PLANNING COMMISSION**

**FILE NUMBER:** CDC-16-03

**HEARING DATE:** November 16, 2016

**REQUEST:** To consider a recommendation to City Council for adoption of proposed text amendments to West Linn Community Development Code Chapters 2, 19, 21, 22, 35, 59, 60, 98, and 99.

**APPROVAL CRITERIA:** Community Development Code (CDC) Chapters 98 and 105

**STAFF REPORT PREPARED BY:** Darren Wyss, Associate Planner

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## GENERAL INFORMATION

- APPLICANT:** City of West Linn
- DESCRIPTION:** A proposal for text amendments to West Linn Community Development Code Chapters 2, 19, 21, 22, 35, 59, 60, 98, and 99.
- APPROVAL CRITERIA:** Community Development Code (CDC) Chapter 98 provides administrative procedures for legislative amendments to the Comprehensive Plan. Section 98.100 of the CDC lists the factors upon which a decision shall be based. These are briefly described below and addressed in greater detail in a separate Section of this report:
1. The Statewide Planning Goals and rules adopted under ORS Chapter 197 and other applicable state statutes;
  2. Any federal or state statutes or rules found applicable;
  3. Applicable plans and rules adopted by the Metropolitan Service District (Metro);
  4. The applicable Comprehensive Plan policies and map; and,
  5. The applicable provisions of implementing ordinances.
- PUBLIC NOTICE:** Legal notice was published in the West Linn Tidings on November 3, 2016 and provided to required public agencies and persons who requested notice in writing on October 27, 2016.
- 120-DAY RULE:** Not applicable to this legislative action.

## EXECUTIVE SUMMARY

In February 2016, the West Linn City Council adopted yearly goals. Included in the list of goals was to “Address Community Development Code (CDC) and Comprehensive Plan Changes”. The Council then appointed a Committee for Citizen Involvement (CCI) and tasked them with proposing amendments to the CDC to pass along to the Planning Commission for review and recommendation. The CCI met approximately 12 times to discuss potential CDC amendments and recommended three proposals to the Planning Commission. These include:

1. Clarifying the duration and approval authority for temporary use permits;
2. Amending the Conditional Use Permit criteria from overall needs to overall benefit;
3. Creating a new section to codify the process for citizen involvement in legislative changes.

The purpose of the proposals are to make the CDC more usable and aligned with the community vision. The three proposals were discussed by the City Council, CCI, and Planning Commission at a joint worksession on October 17, 2016. The proposals were also discussed at a Planning Commission worksession on November 2, 2016, where several changes were requested by the Commission.

During the CCI process, City staff had inquiries into whether and where brewpubs or cider houses could be located in the City. The CDC currently does not directly address this type of business that produces a beverage for on-site sale. The City’s Economic Development Committee (EDC) also completed a survey of residents in August 2016 and found that these were desirable businesses in the community. To address this gap in the CDC and community aspirations, the City Manager directed staff to clarify where these uses were allowed within the City. The result was a proposed amendment to the definition of “eating and drinking establishments”.

Both the CCI and City Manager proposed amendments to the Community Development Code are packaged together in Ordinance 1655, which is found in Exhibit PC-2. Adoption of the proposal will ensure the CDC remains aligned with the community vision and aspirations, and remains a viable tool for decision-makers.

## RECOMMENDATION

Staff recommends the Planning Commission finds this request to meet the necessary approval criteria. Therefore, staff recommends the Planning Commission **RECOMMEND** to the West Linn City Council that it adopt amendments to the West Linn Community Development Code as provided in Exhibit PC-2 (Ordinance 1655).

## **PROJECT BACKGROUND**

The West Linn Community Development Code periodically needs updated to remain aligned with state and regional rules, the community vision and aspirations, and to address contemporary issues where the code is currently silent. The West Linn City Council understands this need and adopted yearly goals in February 2016 that included “Address Community Development Code (CDC) and Comprehensive Plan Changes”. The Council also found it important to gather citizen input during the development of proposed changes and appointed a Committee for Citizen Involvement (CCI) to lead the discussions about how the code could be improved.

The CCI met a number of times in the Spring/Summer of 2016 and identified a package of proposed amendments. These include:

### Temporary Use Permits

The CCI, at the request of City Council, reviewed how a temporary use permit is reviewed and approved. The CCI proposal aims to clarify the allowed duration of the permit and the approval authority based on the length/type of permit being requested. The CCI proposed the Planning Director approve permits up-to-one year if they are not associated with another land use approval and the Planning Commission approve permits of one year or if associated with another land use approval.

### Conditional Use Criteria

The CCI proposed changing CDC 60.070.A(3) from “consistent with the overall needs” to “provide an overall benefit to the community”. This was in direct response to a debate that took place during a previous conditional use permit hearing process. The CCI decided the proposed language was more in alignment with the community vision.

### Citizen Engagement in Legislative Changes

The CCI, at the request of City Council, reviewed draft language to codify an administrative policy into the CDC. There was consensus on the CCI that the administrative policy to include a citizen working group in legislative matters was not always followed and it should be codified. The proposal includes language on the creation of, outcome of, and conduct of the working group.

Upon completion of the CCI proposal, the City Council held a joint meeting with the Planning Commission and CCI to discuss the proposals on October 17, 2016. There was discussion about whether it is necessary to define community or overall benefit. The City Attorney also proposed changing “legal counsel” to “City Attorney” in the proposal to codify the working group process.

The Planning Commission then held its own worksession on the proposals on November 2, 2016. After discussion, the Commission directed staff to make some changes to the proposal before the scheduled public hearing. The following changes were requested and are included in the proposed amendments in Ordinance 1655:

1. Change the duration for a temporary use permit approved by the Planning Director from up-to-one year to 60 days with one renewal for an additional 60 days. Change the language for Planning Commission approval authority to permits over 120 days but no more than one year with one renewal for no more than one year.
2. Change the word “community” to “city” in CDC 60.070.A(3).
3. Make the following changes to CDC 98.035.B:
  - Provide an exemption clause for situations where forming a working group would serve no purpose. An example would be when the City is mandated to enact a state mandate and there are no options available to the City.
  - Ensure consistent use of terms throughout.
  - Change “legal counsel” to “City Attorney” as requested by the City Attorney.
  - Better define the relationship of the CCI, City Council, and working group to the Planning Commission. Also connect the Council process with the working group goals.

Outside of the CCI process, the City Manager directed staff to research and make a recommendation on an amendment to clarify where a business that produces its own beer or cider could be located within the City. This request was a result of several inquiries from businesses looking to locate in West Linn. These businesses were interested in brewing beer/producing cider and serving it on-site in a taproom/restaurant. Since the City already has such a business model operating as McMenamins in the shopping center on 8<sup>th</sup> Avenue, and the code does not directly address the topic, it was a question needing an answer.

At the same time, the City’s Economic Development Committee administered a survey of residents in August 2016 and the results showed a demand for this same type of business. To address the gap in the CDC and move towards meeting the community aspirations, the City Manager asked for a proposal that clarified the issue.

Staff developed a proposal that would allow on-site production and sale of food and beverages by updating the existing definition of “eating and drinking establishments” to allow contemporary uses such as brewpubs/cider houses. Staff took the proposed amendment to the Planning Commission worksession on November 2, 2016 for feedback and comment. The Commission were unanimously in support of bringing the code up to date to allow such uses in the community.

After the worksession, the Planning Commission directed staff to bring the proposed changes (Exhibit PC-2, Ordinance 1655) back to a public hearing on November 16, 2016.

#### **PUBLIC COMMENT**

As of the publishing of this staff report, the City has received no written or oral public comment on the proposed CDC amendments.

**ADDENDUM**  
**PLANNING COMMISSION STAFF REPORT**  
**November 16, 2016**

**APPLICABLE CRITERIA AND COMMISSION FINDINGS**

West Linn Community Development Code

Chapter 98 - Procedures for Decision Making: Legislative  
CDC 98.040 Duties of Director

*A. The Director shall:*

1. *If appropriate, or if directed by the City Council or Planning Commission in their motion, consolidate several legislative proposals into a single file for consideration;*

**Findings:** The proposed legislative amendments to the West Linn Community Development Code have been consolidated into one file as allowed. The consolidation is appropriate as all proposed amendments are directed at meeting the 2016 West Linn City Council Goal: Address Community Development Code and Comprehensive Plan Changes.

2. *Upon the initiation of a legislative change, pursuant to this chapter:*

a. *Give notice of the Planning Commission hearing as provided by CDC 98.070 and 98.080;*

**Findings:** The Planning Commission public hearing will be held on November 16, 2016, with the City Council public hearing scheduled for December 12, 2016. Legislative notice was provided as required and documentation can be found in Exhibit PC-1.

b. *Prepare a staff report that shall include:*

1) *The facts found relevant to the proposal and found by the Director to be true;*

2) *The Statewide planning goals and rules adopted under Chapter 197 ORS found to be applicable and the reasons why any other goal or rule is not applicable to the proposal except that goals 16 through 19 which are not applicable to the City of West Linn need not be addressed;*

3) *Any federal or State statutes or rules the Director found applicable;*

4) *Metro plans and rules the Director found to be applicable;*

5) *Those portions of the Comprehensive Plan found to be applicable, and if any portion of the plan appears to be reasonably related to the proposals and is not applied, the Director shall explain the reasons why such portions are not applicable;*

6) *Those portions of the implementing ordinances relevant to the proposal, and if the provisions are not considered, the Director shall explain the reasons why such portions of the ordinances were not considered; and*

7) *An analysis relating the facts found to be true by the Director to the applicable criteria and a statement of the alternatives; a recommendation for approval, denial, or approval with modifications; and at the Director's option, an alternative recommendation;*

**Findings:** Relevant facts and associated analysis for applicable Statewide Planning Goals, federal and state statutes/rules, Metro plans/rules, West Linn Comprehensive Plan goals and

policies, and West Linn Community Development Code criteria are found in the sections of the Staff Report below.

c. *Make the staff report and all case file materials available 10 days prior to the scheduled date of the public hearing under CDC 98.070;*

**Findings:** The staff report, proposed amendments, and all other associated project materials were made available on November 5, 2016.

d. *Cause a public hearing to be held pursuant to CDC 98.070;*

**Findings:** The West Linn Planning Commission is scheduled to hold the first evidentiary public hearing on November 16, 2016, with the West Linn City Council scheduled to hold its public hearing and make a final decision on December 12, 2016.

*CDC 98.100 Standards for Decision*

A. *The recommendation of the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:*

1. *The Statewide planning goals and rules adopted under Chapter 197 ORS and other applicable State statutes;*

*Statewide Planning Goal 1 – Citizen Involvement:*

*This goal outlines the citizen involvement requirement for the adoption of Comprehensive Plans and changes to the Comprehensive Plan and implementing documents.*

**Findings:** The West Linn Committee for Citizen Involvement (CCI), appointed by the City Council (CC), held a series of approximately 12 public meetings to discuss potential Community Development Code amendments. This proposal is the result of those meetings. In addition to the information being available during the CCI process, the CC, CCI, and Planning Commission held a joint worksession on October 17, 2016 to discuss the proposal. The Planning Commission held an additional worksession on November 2, 2016.

Information was distributed and available throughout the process via the City's website. All of the aforementioned venues provided the opportunity for gathering feedback and comments.

As part of the legislative process, public notice requirements for both the Planning Commission and City Council public hearings were met (see Exhibit PC-1). The notice was sent to persons who requested notice, affected government agencies, neighborhood associations, and was published in the November 3, 2016 issue of the West Linn Tidings. The notice invited public input and included the phone number of a contact person to answer questions. The notice also included the address of the City's webpage where the entire draft of proposed amendments could be viewed.

*Statewide Planning Goal 2 – Land Use Planning:*

*This goal outlines the land use planning process and policy framework. The Comprehensive Plan was acknowledged by DLCD as being consistent with the statewide planning goals.*

**Findings:** The amendments to the West Linn Community Development Code are being undertaken to update the City's acknowledged land use planning program in a manner consistent with current conditions and citizen values. The amendments are being processed in accordance to the City's adopted procedures, which requires any applicable statewide planning goals, federal or state statutes or regulations, Metro regulations or plans, comprehensive plan policies, and the City's implementing ordinances be addressed as part of the decision-making process. The amendments are being processed as post-acknowledgement plan amendments (PAPA) and noticing requirements have been met. All applicable review criteria have been addressed within this staff report; therefore, the requirements of Goal 2 have been met.

Statewide Planning Goal 5 – Natural Resources:

*This goal requires the inventory and protection of natural resources, open spaces, historic sites and areas.*

**Findings:** The City is currently in compliance with the State's Goal 5 program and Metro's Title 13: Nature in Neighborhoods program, which implements Goal 5. The amendments do not alter the City's acknowledged Goal 5 inventories or associated land use programs. No changes will occur to current natural resource protections. As a result, the amendments are in compliance with Goal 5 process requirements.

Statewide Planning Goal 6 – Air, Water, and Land Resource Quality:

*To maintain and improve the quality of air, water, and land resources of the state.*

**Findings:** The City is currently in compliance with Metro's Title 3: Water Quality and Flood Management program, which implements Goal 6. The amendment does not alter the City's acknowledged land use programs regarding water quality and flood management protections. As a result, the amendments are in compliance with Goal 6.

Statewide Planning Goal 7 – Areas Subject to Natural Hazards:

*To protect people and property from natural hazards.*

**Findings:** The City is currently in compliance with Goal 7 and Metro's Title 3: Water Quality and Flood Management program. The amendments do not alter the City's acknowledged Goal 7 land use programs. No changes will occur to current natural hazard protections. As a result, the amendments are in compliance with Goal 7.

Statewide Planning Goal 8 – Recreational Needs:

*This goal requires the satisfaction of the recreational needs of the citizens of the state and visitors.*

**Findings:** The proposed amendments do not address or alter any City recreational programs or land use requirements related to parks and recreation. The amendments are consistent with this goal.



Statewide Planning Goal 9 – Economic Development:

*To provide adequate opportunities for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.*

**Findings:** The City is currently in compliance with Goal 9 and Metro’s Title 1: Requirements for Housing and Employment Accommodation and Title 4: Industrial and Other Employment Areas. The amendments do not alter the City’s compliance with Goal 9. The amendments seek to clarify temporary use duration and approval authority and expand the definition of eating and drinking establishments to allow on-site production and sale of food and beverages. The definition change will provide additional economic development opportunities in the City’s core commercial zones. The amendments are consistent with this goal.

Statewide Planning Goal 10 – Housing:

*To provide adequate housing for the needs of the community, region and state.*

**Findings:** The City is currently in compliance with Goal 10 and the Metropolitan Housing Rule (OAR 660-007/Division 7), and Metro’s Title 1: Requirements for Housing and Employment Accommodation. The amendments do not alter the City’s compliance with Goal 10 and are consistent with this goal.

Statewide Planning Goal 11 – Public Facilities and Services:

*To plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as framework for urban and rural development.*

**Findings:** The City is currently in compliance with Goal 11 through its acknowledged Comprehensive Plan. This includes an adopted Public Facility Plan as required by Oregon Revised Statute 197.712 and Oregon Administrative Rule 660-011. The amendments do not alter the City’s compliance with Goal 11 and are consistent with this goal.

Statewide Planning Goal 12 – Transportation:

*To provide and encourage a safe, convenient, and economic transportation system.*

**Findings:** The City is currently in compliance with Goal 12 and Metro’s Regional Transportation Plan through its acknowledged Comprehensive Plan and TSP as required by Oregon Administrative Rule 660-012 (Transportation Planning Rule). The amendments do not alter the City’s compliance with Goal 12 and are consistent with this goal.

Statewide Planning Goal 13 – Energy Conservation:

*Land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based on sound economic principles.*

**Findings:** The City is currently in compliance with Goal 13 through its acknowledged Comprehensive Plan. The amendments do not alter the City’s compliance with Goal 13 and are consistent with this goal.

Statewide Planning Goal 14 – Urbanization:

*To provide for orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.*

**Findings:** The City is currently in compliance with Goal 14 and Metro’s Title 11: Planning for New Urban Areas through its acknowledged Comprehensive Plan and land use regulations. The City also has a signed Urban Growth Management Agreement with Clackamas County as required by ORS 195.065. The amendments do not alter the City’s compliance with Goal 14 and are consistent with this goal.

Statewide Planning Goal 15 – Willamette River Greenway:

*To provide for keeping the land green along the banks of the river and providing for recreation access.*

**Findings:** The City is currently in compliance with Goal 15 through its acknowledged Comprehensive Plan and land use regulations. The amendments do not alter the City’s compliance with Goal 15 and are consistent with this goal.

**Conclusion:** Based on the analysis above, the Commission finds the proposed amendments are consistent with applicable Statewide Planning Goals.

2. *Any federal or State statutes or rules found applicable;*

**Findings:** Staff is not aware of any applicable state or federal regulations that are impacted by the proposed draft ordinance. The City has an acknowledged Comprehensive Plan and associated land use regulations that comply with applicable state statutes and administrative rules. The Oregon Department of Land Conservation and Development and the Oregon Department of Transportation were sent notice of the proposed amendments and provided the opportunity to comment. The amendments do not alter the City’s compliance with any state or federal statutes or rules.

**Conclusion:** Based on the analysis above, the Commission finds the proposed amendments are consistent with applicable federal or state statutes or rules.

3. *Applicable plans and rules adopted by the Metropolitan Service District;*

The Metro Regional Transportation System Plan

**Findings:** The City of West Linn is currently in compliance with the Metro Urban Growth Management Functional Plan (UGMFP). Metro staff were sent notice of the proposed amendments and provide the opportunity to comment. The proposed changes will not impact compliance with requirements found in the UGMFP.

**Conclusion:** Based on the analysis above, the Commission finds the proposed amendments are consistent with applicable plans and rules adopted by Metro.

4. *The applicable Comprehensive Plan policies and map; and*

Goal 1: Citizen Involvement

*Policy 3. Encourage individuals to organize and work in groups to develop recommended programs or positions on various issues.*

**Findings:** The West Linn City Council (CC) adopted a goal in January 2016 to “Address Community Development Code (CDC) and Comprehensive Plan Changes”. The CC then appointed the Committee for Citizen Involvement (CCI) and tasked them to make recommendations to the Planning Commission on potential amendments to the CDC. The CCI met approximately 12 times, all meetings were noticed and open to the public, and forwarded the proposed amendments found in Ordinance 1655.

*Policy 4. Provide timely and adequate notice of proposed land use matters to the public to ensure that all citizens have an opportunity to be heard on issues and actions that affect them.*

**Findings:** As part of the legislative process, public notice of the Planning Commission and City Council public hearings was sent to persons who requested notice, affected government agencies, neighborhood associations, and was published in the November 3, 2016 issue of the West Linn Tidings. The notice invited public input and included the phone number of a contact person to answer questions. The notice also included the address of the City’s webpage where the entire draft of proposed amendments could be viewed.

*Policy 5. Communicate with citizens through a variety of print and broadcast media early in and throughout the decision-making process.*

**Findings:** Information was distributed throughout the process via the City website. The West Linn Committee for Citizen Involvement (CCI), appointed by the City Council (CC), held a series of approximately 12 public meetings to discuss potential Community Development Code amendments. This proposal is the result of those meetings. In addition to the information being available during the CCI process, the CC, CCI, and Planning Commission held a joint worksession on October 17, 2016 to discuss the proposal. The Planning Commission held an additional worksession on November 2, 2016. All of the aforementioned venues provided the opportunity for gathering feedback and comments.

As part of the legislative process, public notice of the Planning Commission and City Council public hearings was sent to persons who requested notice, affected government agencies, neighborhood associations, and was published in the November 3, 2016 issue of the West Linn Tidings. The notice invited public input and included the phone number of a contact person to answer questions. The notice also included the address of the City’s webpage where the entire draft of proposed amendments could be viewed.

## Goal 2: Land Use Planning

### *Section 3: Mixed Use/Commercial Development*

*Policy 4. Design and locate existing or proposed commercial uses in a manner that:*

*c. Encourages creation of meaningful public gathering places that incorporate uses such as entertainment and recreation venues, restaurants, and unique shopping opportunities to increase activity in surrounding areas.*

*d. Encourages small businesses, retail establishments, and other employment activities.*

**Finding:** The proposal expands the definition of “eating and drinking establishments” to allow on-site production and sale of food and beverages. The proposal is a direct result of the current code being silent on these contemporary businesses and will help to encourage meaningful public gathering places, restaurants, employment activities, and increase activity in surrounding areas.

### *Section 4: Industrial Development*

*Policy 2. Maintain a campus industrial zone to provide for a combination of clean industries, offices, and supportive retail commercial uses.*

**Finding:** The proposal clarifies “eating and drinking establishments” and “drive through restaurants” as Uses and Development Permitted Under Prescribed Conditions. The proposed amendments are consistent with supportive retail commercial uses.

### *Section 5: Intergovernmental Coordination*

*Policy 1. Maintain effective coordination with other local governments, special districts, state and federal agencies, Metro, the West Linn-Wilsonville School District, and other governmental and quasi-public organizations.*

*Policy 4. Coordinate with Metro planning activities on all areas in which Metro has jurisdiction and as specified in Goal 14 of this Plan.*

**Finding:** Notice was sent to West Linn-Wilsonville School District, Metro, Clackamas County, ODOT, the City of Lake Oswego, and all West Linn Neighborhood Associations. They were provided the opportunity to review and comment on amendments proposed for adoption.

## Goal 9: Economic Development

*Policy 4. Update City regulations to respond to changes in technology as they affect local businesses.*

**Finding:** The proposal expands the definition of “eating and drinking establishments” to allow on-site production and sale of food and beverages. The proposal is a direct response to the current code being silent on contemporary businesses such as brewpubs and cider houses.

**This amendment will help align the code with current conditions and take advantage of opportunities within the regional economy.**

*Policy 9. Adopt City regulations that are easy to understand and contain development standards that can be uniformly applied.*

**Finding: The proposal clarifies several sections of the code and ensures it can be uniformly applied. It expands the definition of “eating and drinking establishments” to make it clear that businesses such as brewpubs and cider houses are permitted uses in most commercial zones. It also clarifies the duration and approval authority for a temporary use permit.**

**Conclusion: Based on the analysis above, the Commission finds the proposed amendments are consistent with applicable West Linn Comprehensive Plan policies and map.**

5. The applicable provisions of the implementing ordinances.

**Finding: Staff is not aware of any additional applicable provisions, which are not found above, of the implementing ordinances related to the proposed amendments.**

**Conclusion: Based on the analysis above, the Commission finds the proposed amendments are consistent with applicable chapters of the West Linn Community Development Code.**

EXHIBIT PC-1 – AFFIDAVIT OF NOTICE AND MAILING PACKET

# AFFIDAVIT OF NOTICE

We, the undersigned do hereby certify that, in the interest of the party (parties) initiating a proposed land use, the following took place on the dates indicated below:

## GENERAL

File No. CDL-16-03 Applicant's Name CITY OF WEST LINN  
Development Name N/A  
Scheduled Meeting/Decision Date PC 11-16-16 CC 12-12-16

**NOTICE:** Notices were sent at least 20 days prior to the scheduled hearing, meeting, or decision date per Section 99.080 of the Community Development Code. (check below)

## TYPE A

A. The applicant (date) \_\_\_\_\_ (signed) \_\_\_\_\_  
B. Affected property owners (date) \_\_\_\_\_ (signed) \_\_\_\_\_  
C. School District/Board (date) 10-27-16 (signed) S. Shroyer  
D. Other affected gov't. agencies (date) 10-27-16 (signed) S. Shroyer  
E. Affected neighborhood assns. (date) 10-27-16 (signed) S. Shroyer  
F. All parties to an appeal or review (date) \_\_\_\_\_ (signed) \_\_\_\_\_

At least 10 days prior to the scheduled hearing or meeting, notice was published/posted:

Tidings (published date) 11-3-16 (signed) S. Shroyer  
City's website (posted date) 10-27-16 (signed) S. Shroyer

## SIGN

At least 10 days prior to the scheduled hearing, meeting or decision date, a sign was posted on the property per Section 99.080 of the Community Development Code.

(date) \_\_\_\_\_ (signed) \_\_\_\_\_

**NOTICE:** Notices were sent at least 14 days prior to the scheduled hearing, meeting, or decision date per Section 99.080 of the Community Development Code. (check below)

## TYPE B \_\_\_\_\_

A. The applicant (date) \_\_\_\_\_ (signed) \_\_\_\_\_  
B. Affected property owners (date) \_\_\_\_\_ (signed) \_\_\_\_\_  
C. School/District/Board (date) \_\_\_\_\_ (signed) \_\_\_\_\_  
D. Other affected gov't. agencies (date) \_\_\_\_\_ (signed) \_\_\_\_\_  
E. Affected neighborhood assns. (date) \_\_\_\_\_ (signed) \_\_\_\_\_

Notice was posted on the City's website at least 10 days prior to the scheduled hearing or meeting.

Date: \_\_\_\_\_ (signed) \_\_\_\_\_

**STAFF REPORT** mailed to applicant, City Council/Planning Commission and any other applicable parties 10 days prior to the scheduled hearing.

(date) 11-4-2016 (signed) [Signature]

**FINAL DECISION** notice mailed to applicant, all other parties with standing, and, if zone change, the County surveyor's office.

(date) \_\_\_\_\_ (signed) \_\_\_\_\_

**CITY OF WEST LINN  
PUBLIC HEARING CDC-16-03**

**TO ADOPT TEXT AMEMNDMENTS TO COMMUNITY DEVELOPMENT CODE CHAPTERS  
2, 18, 19, 21, 22, 35, 59, 60, 98, and 99.**

The West Linn Planning Commission will hold a public hearing on **Wednesday, November 16, 2016, at 6:30 p.m.** in the Council Chambers of City Hall, 22500 Salamo Road, West Linn, to consider adoption of Ordinance Number 1655. Following the hearing, the Planning Commission will make a recommendation to the City Council. The Council will make a final decision regarding the Planning Commission recommendation following its own public hearing on **Monday, December 12, 2016 at 6:30 p.m.**, in the Council Chambers of City Hall, 22500 Salamo Road, West Linn.

The hearings will be conducted in accordance with the rules of CDC Section 98 and 105. Anyone wishing to present written testimony on this proposed action may do so in writing prior to, or at the public hearings. Oral testimony may be presented at the public hearings. At the public hearing(s), the Planning Commission and City Council will receive a staff presentation, and invite both oral and written testimony. The Commission or Council may continue the public hearing to another meeting to obtain additional information, leave the record open, or close the public hearing and take action on the proposed amendments as provided by state law. Failure to raise an issue in person or by letter at some point prior to the close of the hearing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes an appeal to the Land Use Board of Appeals (LUBA) based on that issue.

Ordinance Number 1655 proposes amendments to Community Development Code (CDC) Chapters:

- Chapter 2 – modifies certain definitions
- Chapters 18, 19, 21, 22 and 59 – modifies use categories
- Chapter 35 - modifies the duration of Temporary Uses and amends the decision authority
- Chapter 60 – modifies approval criteria to require an overall benefit to the community
- Chapter 98 – adds a new section 98.035 Citizen Engagement in Legislative Changes
- Chapter 99 – modifies 99.060 Approval Authority to amend the Planning Commission authority to review Temporary Uses and removes the Council review of Temporary Uses

At least 10 days prior to the hearing, a copy of Ordinance 1655 and associated staff report will be available for inspection or purchase at a cost of \$0.25 a page after the first five pages at the Planning Department, 22500 Salamo Road. The information is also available on the West Linn website at <http://westlinnoregon.gov/planning/committee-citizen-involvement-cci-development-code-amendments>

For further information, please contact John Boyd, Interim Community Development Director, at City Hall, 22500 Salamo Road, West Linn, OR 97068, phone (503) 656-4211, or via e-mail at [jboyd@westlinnoregon.gov](mailto:jboyd@westlinnoregon.gov).

Publish: West Linn Tidings, November 3, 2016





# CITY OF West Linn

## **CITY OF WEST LINN PUBLIC HEARING NOTICE**

**PROJECT # CDC-16-03  
MAIL: 10/27/16 TIDINGS: 11/3/16**

### **CITIZEN CONTACT INFORMATION**

To lessen the bulk of agenda packets, land use application notice, and to address the worries of some City residents about testimony contact information and online application packets containing their names and addresses as a reflection of the mailing notice area, this sheet substitutes for the photocopy of the testimony forms and/or mailing labels. A copy is available upon request.

EXHIBIT PC-2 – PROPOSED AMENDMENTS (ORD 1655)

ORDINANCE NO. 1655

**AN ORDINANCE RELATING TO EATING AND DRINKING ESTABLISHMENTS; TEMPORARY USES; CONDITIONAL USES; LEGISLATIVE PROCEDURES FOR DECISION MAKING; QUASI-JUDICIAL APPROVAL AUTHORITIES; AND AMENDING COMMUNITY DEVELOPMENT CODE CHAPTERS 2, 19, 21, 22, 35, 59, 60, 98 and 99.**

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~bold lined through~~ and additions are bold underlined.

**WHEREAS**, Chapter II, Section 4, of the West Linn City Charter provides:

Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers;

**WHEREAS**, , the above referenced grant of power has been broadly interpreted to allow local governments to decide upon the scope of their powers in their charter so that specific statutory authorization is not required for a city to exercise its powers, LaGrande/Astoria v. PERB, 281 Or 137, 142 (1978), aff'd on reh'g 284 Or 173 (1978);

**WHEREAS**, the City Council adopted on February 8, 2016, the City Council Goals including "Address Community Development Code and Comprehensive Plan Changes;"

**WHEREAS**, the Planning Commission held a work session on November 2, 2016, and

**WHEREAS**, the Planning Commission held a public hearing on November 16, 2016, and closed the public hearing and deliberated to a final recommendation for the City Council on \_\_\_\_ \_\_, 2016.

**NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:**

**SECTION 1. Amendment.** West Linn Community Development Code ("CDC") Section 2.030 is amended to read as follows:

...

**Eating and drinking establishments.** Establishments or places of business **that are not drive-through restaurants and** primarily ~~engage~~ **engaged** in the sale of prepared **or produced** food and beverages for on-premises consumption, **on-premises sale, or take out service. On-premises sales do not include sales to secondary retailers or wholesalers.** Typical uses include, **but are not limited to:** fast ~~order~~ food establishments, **restaurants, delicatessens, brew-pubs, coffee shops, with and without drive up facilities and sit-down eating establishments,** taverns, bars and lounges.

...

**SECTION 2. Amendment.** West Linn CDC Section 19.030 is amended to read as follows:

19.030 PERMITTED USES

The following uses are permitted outright in this zone:

1. Agricultural sales.
2. Agricultural services.
3. Animal sales and services, grooming.
4. Building maintenance services.
5. Business equipment sales and services.
6. Business support services.
7. Communications services.
8. Consumer repair services.
9. Convenience sales and personal services.
10. Eating and drinking establishments.
- 11. Drive-through restaurants.**
- ~~11.~~ Family day care.
- ~~12.~~ Financial, insurance and real estate services.
- ~~13.~~ Food and beverage retail sales.
- ~~14.~~ General retail services.
- ~~15.~~ Hotel/motel, including those operating as extended hour businesses.
- ~~16.~~ Laundry services.
- ~~17.~~ Senior center.
- ~~18.~~ Medical and dental services.
- ~~19.~~ Parking facilities.
- ~~20.~~ Participant sports and recreation, indoor.
- ~~21.~~ Personal service facilities.
- ~~22.~~ Professional and administrative services.
- ~~23.~~ Research services.
- ~~24.~~ Utilities, minor.
- ~~25.~~ Cultural exhibits and library services.

~~26.~~ Extended-hour businesses that do not include the construction of a new building or expansion of an existing structure.

~~27.~~ Transportation facilities (Type I).

~~28.~~ Lodge, fraternal, community center, and civic assembly within the commercial districts along Highway 43, Salamo Road or Blankenship Road.

~~29.~~ Religious institutions within the commercial districts along Highway 43, Salamo Road, or Blankenship Road.

**SECTION 3. Amendment.** West Linn Community Development Code (“CDC”) Section 21.050 is amended to read as follows:

21.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

The following uses are allowed in this zone under prescribed conditions:

1. Animal sales and services: veterinary (small animals) as prescribed with no exterior runs or storage.
2. Multiple-family units only above the first floor of the structure, as a mixed use in conjunction with commercial development that utilizes the entire first floor.
3. Signs, subject to the provisions of Chapter [52](#) CDC.
4. Temporary use, subject to the provisions of Chapter [35](#) CDC.
5. Home occupation, subject to provisions of Chapter [37](#) CDC.
6. Wireless communication facilities, subject to the provisions of Chapter [57](#) CDC.
7. Eating and drinking establishments, ~~subject to the following limitations:~~
  - ~~a. The use shall that do not~~ constitute ~~no~~ more than 20 percent of the total floor area of the building in which it is located.
  - ~~b. The use shall not include any drive-through facilities. (Ord. 1226, 1988; Ord. 1408, 1998; Ord. 1442, 1999; Ord. 1565, 2008; Ord. 1647 § 2, 2016)~~

**SECTION 4. Amendment.** West Linn Community Development Code (“CDC”) Section 22.050 is amended to read as follows:

22.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

A. The following uses are allowed on a limited basis as part of the development of this district when developed concurrently with or after the primary uses, subject to the provisions of subsection B of this section:

1. Convenience sales and personal services.
2. Banks.

3. Medical and dental services.
4. **Eating and drinking establishments. Bars and cocktail lounges in conjunction with a restaurant.**
5. **Drive through restaurants.**

~~6.5.~~ Drive through window service **for all uses allowed in this subsection** in conjunction with **uses the limitations** in subsection B of this section ~~and including restaurants may be allowed.~~

B. Limitations and conditions on the development of the uses in subsection A of this section shall be as follows:

1. The total combined floor area occupied by all the listed uses shall not exceed 10 percent of the total floor area occupied by the permitted use. Formula: 0.10 times permitted floor area equals listed use floor area.
2. All listed uses shall be located, arranged and integrated within the development to serve primarily the shopping and service needs of employees of the district.
3. No outdoor storage of materials associated with the listed use shall be allowed.
4. Uses shall not be of a type or intensity which produces odor, smoke, fumes, noise, glare, heat or vibrations which are incompatible with associated permitted uses in the area.
5. All listed uses shall comply with the dimensional and development standards under CDC [22.070](#) and [22.080](#).

C. The following uses are allowed in this zone under prescribed conditions:

1. Sign, subject to the provisions of Chapter [52](#) CDC.
2. Temporary use, subject to the provisions of Chapter [35](#) CDC.
3. Water dependent uses, subject to the provisions of Chapters 28 and 34 CDC.
4. Wireless communication facilities, subject to the provisions of Chapter [57](#) CDC.

**SECTION 5. Amendment.** West Linn Community Development Code (“CDC”) Section 35.050 is amended to read as follows:

#### 35.050 DURATION OF TEMPORARY USES

Temporary uses may be allowed for ~~up to 60 days~~ **no more than one year**, with one additional renewal for no greater duration than the original approval, except as follows:

A. Construction trailers and associated parking and staging areas beyond the site approved for the associated development may be allowed for the duration of active construction projects.

B. Drop boxes, structures serving a similar function, and trailers authorized under CDC [35.030](#)(A) will be allowed indefinitely, but they will be revoked if they are unused or abandoned for a period of 60 days or if material is not contained by the drop box or trailer and allowed to accumulate outside of the drop box, structure, or trailer.

Upon revocation of the approval, the applicant shall be responsible for removing the drop box, structure, or trailer unless it is abandoned; in that case, removal shall be the responsibility of the property owner.

~~C. Temporary uses approved by the City Council pursuant to CDC [99.060](#)(C)(1)(d) shall be for up to one year with one possible renewal of up to one year, for a maximum of two years.~~

**SECTION 6. Amendment.** West Linn CDC Section 59.060 is amended to read as follows:

59.060 CONDITIONAL USES

Only the following conditional uses are allowed in this zone subject to the provisions of Chapter [60](#) CDC, Conditional Uses:

1. Children's day care center.
2. Community center for civic or cultural events.
3. Small appliance repair services.
4. Governmental offices.
5. Religious institution.
6. Senior or community center.
7. Public support and public safety facilities, including public parking lots.
8. Nursery.
9. Parks and open space.
10. Boutiques.
11. Small business equipment sales and service.
12. Craft shops.
13. Cultural exhibits and library services.

14. Eating and drinking establishments ~~except no drive through service.~~
15. Retail sales and service, except no drive-through service.
16. Professional and administrative services.
17. Medical or dental offices or clinics.
18. Financial, insurance, and real estate services, except no drive-through service.

**SECTION 7. Amendment.** West Linn CDC Section 60.070 is amended to read as follows:

60.070 APPROVAL STANDARDS AND CONDITIONS

A. The Planning Commission shall approve, approve with conditions, or deny an application for a conditional use, except for a manufactured home subdivision in which case the approval standards and conditions shall be those specified in CDC [36.030](#), or to enlarge or alter a conditional use based on findings of fact with respect to each of the following criteria:

1. The site size and dimensions provide:
  - a. Adequate area for the needs of the proposed use; and
  - b. Adequate area for aesthetic design treatment to mitigate any possible adverse effect from the use on surrounding properties and uses.
2. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and natural features.
3. The granting of the proposal will ~~provide for~~ **produce** a facility that **provides is consistent with the an** overall **benefit to needs of** the **City community**.
4. Adequate public facilities will be available to provide service to the property at the time of occupancy.
5. The applicable requirements of the zone are met, except as modified by this chapter.
6. The supplementary requirements set forth in Chapters 52 to 55 CDC, if applicable, are met.
7. The use will comply with the applicable policies of the Comprehensive Plan.

...



SECTION 8. New Section. West Linn CDC Section 98.035 is added to read as follows:

**98.035 CITIZEN ENGAGEMENT IN LEGISLATIVE CHANGES**

- A. **Purpose.** The purpose of a legislative working group is to provide a forum to discuss different points of view on a proposed land use legislative change.
- B. **Creation of working group.** New and modified land use legislative changes to this code will be developed by a representative working group of citizens and assisted by planning staff, unless the City Council determines that a working group is not necessary.
1. **After receiving direction from the City Council, the Committee for Citizen Involvement shall recommend a purpose, goals, and a list of appointees for each proposed working group to the City Council for approval.**
  2. **The working group will contain interested stakeholders, a member of the Planning Commission, and a staff representative.**
  3. **The working group shall comply with WLMC 2.060 regarding the selection of officers and the other generally applicable citizen advisory group provisions.**
- C. **Conduct of working group meetings.**
1. **Staff will prepare a suggested draft of the proposed changes. This draft will provide a starting point for discussion and education.**
  2. **The working group will use the draft as a starting point for discussion, but then reconcile the implications of the draft with the goals established by the Council for the working group.**
  3. **After each working group meeting staff will incorporate approved changes and prepare an updated working draft.**
  4. **All working group meetings will be public meetings with an opportunity for anyone in attendance to provide public comment. Written minutes will be published.**
  5. **In the event a consensus cannot be reached on an issue, the working group will prepare alternatives. Each alternative and its rationale will be presented to the Planning Commission.**
  6. **Prior to submission to the Planning Commission, proposed code changes will be submitted to the city attorney for review. The review should be limited to the identification of areas where the proposed language conflicts with other parts of**

this code, state law or federal law. As an alternative, legal counsel may attend and advise during the creation of the draft.

D. Presentation to the Planning Commission. When the working group reaches consensus that the code changes are ready, the proposed code changes will be presented by the Director to the Planning Commission pursuant to Section 98.040(A)(2). If the working group fails to reach a consensus on the code changes, all proposals will be presented to the Planning Commission. Pursuant to CDC 98.110(A), the Planning Commission shall recommend approval, denial, or approval with modifications to the Council.

**SECTION 9. Amendment.** West Linn CDC Section 99.060 is amended to read as follows:

99.060 APPROVAL AUTHORITY

This section explains the authority of the Planning Director, Planning Commission, City Council, and Historic Review Board as it relates to quasi-judicial and legislative action.

A. Planning Director authority. The Planning Director shall have the authority to:

1. Approve, deny, or approve with conditions the following applications:

a. A temporary use or structure application for a period **no more than 120 days, including all extensions of up to one year** (Chapter [35](#) CDC), **and not associated with another land use approval not including uses allowed through another land use approval process.**

b. A home occupation application (Chapter [37](#) CDC).

c. Access restrictions (Chapter [48](#) CDC).

d. A minor partition (Chapter [85](#) CDC).

e. A final subdivision plat (Chapter [89](#) CDC).

f. A final partition plat (Chapter [89](#) CDC).

g. A lot line adjustment (Chapter [85](#) CDC).

h. Enlargement or alteration of a non-conforming single-family structure containing a conforming use (Chapter [66](#) CDC).

i. Decide applications for a determination of unlisted parking requirements (Chapter [46](#) CDC).

j. A minor alteration to a historic landmark or a structure in the Historic District (Chapter [25](#) CDC).

- k. Parks Design Review, Class I (Chapter [56](#) CDC).
  - l. Design Review, Class I (Chapter [55](#) CDC).
  - m. A sign application (Chapter [52](#) CDC).
  - n. Sidewalk use permit (Chapter [53](#) CDC).
  - o. Flood management area permit (Chapter [27](#) CDC).
  - p. *Repealed by Ord. 1622.*
  - q. Tualatin River protection permit (Chapter [28](#) CDC).
  - r. Water resource area permit (Chapter [32](#) CDC).
  - s. Class I variance (Chapter [75](#) CDC).
  - t. Willamette River Greenway permit (Chapter [28](#) CDC).
  - u. Extensions of approval when the Planning Director acted as the initial decision-making authority.
  - v. Class I historic design review (Chapter [25](#) CDC).
  - w. A demolition permit for a non-contributing or not in period primary structure or an accessory structure (Chapter [25](#) CDC).
2. Approve a use permitted under prescribed conditions provided all of the conditions are satisfied.
  3. Make initial interpretations of the provisions of the code.
  4. Make the initial determination regarding the status of the following:
    - a. Non-conforming structure (Chapter [66](#) CDC).
    - b. Non-conforming structure involving a non-conforming use (Chapter [65](#) CDC).
    - c. Non-conforming use of land (Chapter [67](#) CDC).

B. Planning Commission authority. The Planning Commission shall have the authority to:

1. Make a recommendation to approve, deny, or approve with conditions to the Council:

- a. A quasi-judicial Comprehensive Plan Map amendment (Chapter [105](#) CDC).
  - b. A quasi-judicial zone change application pursuant to Chapter [105](#) CDC, excluding applications requesting the designation or removal of a designation for a historic resource.
2. Approve, deny, or approve with conditions the following applications:
- a. A temporary use or structure application (Chapter [35](#) CDC) **for a minimum of 121 days to no more than one year, not or an application associated with another land use approval including uses allowed through another land use approval process.**
  - b. A conditional use (Chapter [60](#) CDC).
  - c. Enlargement of a non-conforming use or alteration for a structure containing a non-conforming use (Chapter [66](#) CDC).
  - d. Enlargement or alteration of a non-single-family residential non-conforming use (Chapter [66](#) CDC).
  - e. Class II variance or special waiver (Chapter [75](#) CDC).
  - f. Subdivision (Chapter [85](#) CDC).
  - g. Planned unit development (Chapter [24](#) CDC).
  - h. Design review, Class II (Chapter [55](#) CDC).
  - i. Parks design review, Class II (Chapter [56](#) CDC).
  - j. Any matter not specifically assigned to another approval authority.
  - k. Extensions of approval when the Planning Commission acted as the initial decision-making authority.
3. Revoke or modify an approval as provided by CDC [99.330](#) for any application approved by the Planning Commission or Planning Director.
4. Make an unlisted use determination.
5. An appeal of the Planning Director's interpretation of the code pursuant to CDC [01.060](#).
- C. City Council authority. The Council shall have the authority to:

1. Approve, deny, or approve with conditions applications for the following development applications:
  - a. A quasi-judicial Comprehensive Plan Map amendment (Chapter [105](#) CDC).
  - b. A quasi-judicial zone change application pursuant to Chapter [105](#) CDC.
  - c. Boundary change proposals (Chapter [81](#) CDC).
  - ~~d. Temporary use or structure application (Chapter [35](#) CDC), including uses allowed through another land use approval process.~~
2. Consider an appeal or review of a decision made by the Planning Director under the provisions of CDC [99.240](#)(A) and [99.080](#)(B).
3. Consider an appeal or review of a decision made by the Planning Commission or Historic Review Board whether on the Council's own motion, or otherwise as provided by CDC [99.240](#).
4. Decide an appeal of the Director's interpretation of zoning boundaries as provided by CDC [05.040](#).
5. Revoke or modify an approval as provided by CDC [99.330](#) for any application approved by the City Council, including an application approved by the City Council on appeal from another City decision-making authority.

D. Historic Review Board authority. The Historic Review Board shall review an application for compliance with Chapters 25 and 58 CDC, as applicable. The Historic Review Board shall have the authority to:

1. Approve, deny, or approve with conditions an application regarding the following:
  - a. Class II historic design review;
  - b. A demolition permit for a historic landmark or primary contributing structure within a historic district;
  - c. Relocation of a historic resource;
  - d. Revocation or modification of an approval as provided by CDC [99.330](#) for any application approved by the Historic Review Board; and
  - e. An extension of an approval when the Historic Review Board acted as the initial decision-making authority.

2. Make recommendations to the approval authority specified in this section regarding the following:

- a. Designation of a historic resource;
- b. Removal of historic resource designation;
- c. Class I or Class II design review on a property within the Willamette Falls Drive Commercial Design District that is not a historic landmark or within the Willamette Historic District;
- d. New construction within the Willamette Falls Drive Commercial Design District that is not a historic landmark or within the Willamette Historic District;
- e. A partition or subdivision of property containing a historic resource;
- f. Conditional use of property containing a historic resource.

E. Expedited land divisions. Expedited land divisions shall be processed by the Planning Commission without a public hearing pursuant to Oregon Revised Statutes (ORS) [197.360](#) through [197.380](#). Pursuant to ORS [197.360](#)(3), the following City permits may be processed concurrently with an expedited land division application:

1. Pursuant to ORS [197.360](#)(3), the following City permits may be processed concurrently with an expedited land division application:

- a. Planned unit development.
- b. Willamette River Greenway.
- c. Flood management area.
- d. Tualatin River.
- e. Water resource area.
- f. Design review.

2. The Planning Commission shall make their decision based solely upon the record and staff recommendation.

3. Appeals of the Planning Commission decision on an expedited land division shall be review pursuant to Chapter [197](#) ORS.

**SECTION 10. Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**SECTION 11. Savings.** Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions of the ordinance were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

**SECTION 12. Codification.** Provisions of this Ordinance shall be incorporated in the City Code and the word “ordinance” may be changed to “code”, “article”, “section”, “chapter” or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections **[10-13]**) need not be codified and the City Recorder or his/her designee is authorized to correct any cross-references and any typographical errors.

**SECTION 13. Effective Date.** This ordinance shall take effect on the 30<sup>th</sup> day after its passage.

The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 33(c) of the City Charter on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, and duly PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
RUSSELL B. AXELROD, MAYOR

\_\_\_\_\_  
KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY