

Applicant Appeal Letter

Code Interpretation CI-24-01

To: Lebanon City Council
From: Laura LaRoque
Date: March 6, 2025
Subject: Appeal of Code Interpretation CI-24-01

Dear Members of the City Council,

Introduction

This memorandum serves as a formal notice of intent to appeal the adoption of Code Interpretation CI-24-01. The appeal is based on significant procedural errors in the review process and the improper reclassification of “Recreational Trails” as a “Recreational Area in a City Park.” As the applicant who provided both written and verbal testimony during the hearing, I have the standing to appeal this decision.

This appeal is not an objection to the concept of permitting public trails; rather, it is a call to action to ensure that the process for permitting them complies with the legal requirements of the Lebanon Development Code (LDC). The procedural violations outlined below demonstrate that the approval of CI-24-01 was not conducted in accordance with the required legislative and administrative review processes.

Considering the procedural errors outlined below, I respectfully request that the decision to approve CI-24-01 be reconsidered. I further request that the Lebanon City Council deny the adoption of Code Interpretation CI-24-01, as it constitutes an improper amendment of the Lebanon Development Code (LDC) under the guise of interpreting it.

Additionally, I ask that the City Council direct staff to proceed with amending the Development Code Text in accordance with LDC 16.28.030, Table 16.28-1, if the City intends to permit Recreational Trails to be treated in the same manner as a Recreational Area through the appropriate Legislative Review procedure. This process should include proper public notice, hearings, and review procedures as required by LDC.

1. Legal Precedents Supporting the Appeal

- a. ORS 197.829(1) prohibits interpretations that conflict with the express language of the LDC. The LDC clearly distinguishes between recreational trails and parks in LDC 16.32.020, categorizing and authorizing them separately in zoning tables (LDC Tables 16.05-5, 16.06-5, 16.07-5, 16.08-5, 16.09-5, and 16.10-5). In low-density residential zones like Z-RL, the development of recreational trails is explicitly prohibited.
- b. The reclassification of recreational trails as parks exceeds the scope of permissible interpretations under LDC Section 16.25.020(A).

2. Most Specific Definition of a Recreational Trail (LDC 16.32.020 Meaning Specific Words and Terms)

- a. Misapplication of Definitions: City staff referred to definitions of parks and recreation areas in Title 12, Section 12.12.020 of the Lebanon Municipal Code (LMC) instead of the more specific definitions in Title 16 of the LDC.

- b. Misuse of Ordinance Purpose: The term “Recreational Area” was adopted on April 23, 2023, via Ordinance No. 3001 to address issues related to camping by homeless individuals—not to regulate recreational trails. The legislative intent behind this amendment was unrelated to the implementation of the LDC or the Trails Master Plan.
- c. Lack of Evidence: No records from the April 12, 2023, City Council meeting indicate any intent to consider a recreational trail as a recreational area in a city park.

3. Failure to Follow Proper Procedure of an Administrative Review or Quasi-Judicial Review

- a. Incorrect Process Applied: The reclassification of “Recreational Trails” as a “Recreational Area in a City Park” should have been processed as a Development Code Text Amendment via a Legislative Review procedure as required by LDC 16.28.080.
- b. Administrative Review Requirements: Per LDC 16.25.030 and Table 16.20.020-1, Code Interpretations must follow the Administrative Review process outlined in LDC 16.20.040.
- c. Improper Announcement: During the Planning Commission public hearing, it was stated that the Code Interpretation would be processed under the Legislative Review procedure, bypassing the required Administrative or Quasi-Judicial Review process.

4. Failure to Follow Proper Procedure of a Legislative Review

- a. Notice Requirements Not Met: LDC 16.20.060(D) requires public notice to be published in a newspaper at least 10 days before the Planning Commission hearing and 14 days before a City Council hearing (if applicable). There is no evidence that the required notice was published, indicating a procedural error.
- b. Inadequate Public Notice Content: LDC 16.20.040(C)(3)(d) requires public notices to include the relevant decision criteria. The public notice for CI-24-01 listed only chapters of the development code without specifying criteria and referenced the appeal process for a Quasi-Judicial Review, which was inconsistent with the process applied.
- c. Planning Commission’s Role Misinterpreted: According to LDC 16.20.060, the Planning Commission is authorized to make recommendations on legislative matters, not final decisions. However, the Planning Commission improperly made a final decision to approve CI-24-01 without forwarding a recommendation to the City Council.
- d. Lack of City Council Hearing: LDC 16.20.060 mandates a City Council hearing following a recommendation from the Planning Commission. Since the Planning Commission made a final decision, the City Council did not hold the required hearing, which constitutes a procedural violation.

Conclusion and Request

In light of the procedural errors and misapplication of the Lebanon Development Code (LDC) outlined above, I respectfully request that the decision to approve CI-24-01 be reconsidered and reversed. I further request that the Lebanon City Council deny the adoption of Code Interpretation CI-24-01, as it effectively constitutes an unauthorized amendment of the LDC under the pretense of interpretation.

Additionally, if the City wishes to allow Recreational Trails to be treated as Recreational Areas, I ask that the City Council direct staff to initiate a formal amendment to the Development Code Text in accordance with LDC 16.28.030, Table 16.28-1. This process must include proper public notice, hearings, and review procedures as mandated by the LDC to ensure transparency, public participation, and legal compliance.

Thank you for your consideration of this appeal. I look forward to your response.

Sincerely,

Laura LaRoque