

Meeting Notes
Oregon Law Commission
Municipal and Justice Courts Work Group
Limitations on Offense Appeals Small Group
July 6, 2026

I. Call to Order

Attendees of this meeting were Chris Perdue, Judge Juliet Britton, Jim Nass, Judge Dan Cross, Judge Emily Oberdorfer, Kimberly McCullough, Lindsey Detweiller, Monte Luddington, Heather Merek, Chris Perdue, Steve Arntt, Charlie Conrad, Jessica Minifie, Jared Ramsey, and Amy Zubko.

Ms. Zubko began the meeting by reminding the group of research they requested from OLC's Legal Research Aides as well as interest in continuing discussion of *City of Eugene v. Lincoln*, 183 Or App 36, 50 P3d 1253 (2002), and the potential codification of it. Ms. Zubko also reminded the group that there is another small group still discussing the merits ORS chapter 19 vs. 138 for the appellate process of violations, which might have some overlap here, but should not be the main focus of this group.

II. Discussion

a. HB 2460 and ORS 221.389 (5) and (6)

Discussion began by referencing page five of Mr. Nass's memo where he mentioned ORS 221.407(2), which addresses limitations on defendants' appeals in violation and misdemeanor cases and further references ORS 221.389(5) and (6). Mr. Nass wondered if these statutes, created and/or modified by the previous group with HB 2460 of 2025, inadvertently did away

with the limitation on appeals of cases arising from city charter or ordinance offenses, for which he would advocate, but which would make some of this discussion a moot point. Ms. Minifie didn't think the statutes had that effect. Mr. Nass proposed that the group take some time to think that idea.

b. *City of Eugene v. Lincoln*, 183 Or App 36, 50 P3d 1253 (2002) and validity v. constitutionality

The conversation moved on to a discussion of whether to codify *Lincoln* as well as whether to change the word “validity” to “constitutionality” when discussing appeals of city charter and ordinance offenses. The group sought to clarify the second issue, understanding the two words to be used interchangeably in statute and caselaw as shown by an OLC research memo. It was agreed that they were used interchangeably tending to have the meaning of “constitutionality,” but Mr. Nass felt that the word “validity” left open the possibility of appeal on additional grounds such as a conflict with state law or a procedural error in adoption of the charter or ordinance. It was agreed that the statute's intent was probably to limit appeals, though Mr. Nass would prefer “validity” for broader appeal rights against what he perceived as the legislature's and this group's intent.

The group thought it was important to clarify the holding of *Lincoln*, which some understood to be that if an appellant established appellate court jurisdiction on a case by raising a constitutional issue, then the court could also address non-constitutional issues in the case, which would make “validity” a better choice (see *Lincoln*, 183 Or App at 43, 50 P3d at 1257 (2002) (“This case, then, is not one in which ‘the right of appeal * * * depends upon there being involved an issue as to the constitutionality of the * * * ordinance’; therefore our decision need not ‘be upon such

constitutional issue only.’). Others did not believe *Lincoln* to establish such a precedent. Mr. Nass seemed to agree generally, but found it inconsistent with ORS 221.389(6), which limits certain appeals to only the constitutional issue. It was reiterated that the group should agree on the holding of *Lincoln* before discussing its codification, to which the group concurred, but did not think such an agreement could be reached in entirety. Most of the group seemed to agree that *Lincoln* confirmed that constitutional challenges of city charters or ordinances could be “facial” or “as applied” and also agreed that “constitutionality” would be a safe word choice in a bill proposal. Further, though some thought it was unnecessary to include language about “facial” vs. “as applied” challenges both being allowed in the proposal, there was no opposition to doing so as a matter of clarification and ease of reference.

It was noted that one of the OLC research memos discusses this issue as it relates to municipal courts not of record. The group asked if the same issue applies to courts of record and agreed that it was generally not an issue for courts of record, but Mr. Nass worried that if it were interpreted otherwise, defendants tried in a municipal court of record on a city charter or ordinance offense would have no appellate recourse but to challenge the constitutionality of the law. The group further asked if there was any clarifying legislative history on the statutes in question in *Lincoln* (then ORS 221.359 and 221.360, now partially ORS 221.389), which Ms. Zubko offered to research for the group. A previously mentioned thought was reiterated of hesitance to offer changes to statutes for an issue that doesn’t appear to have arisen to the courts for a long time. Mr. Nass reemphasized his general opposition to limitations on appeals from municipal courts, particularly where defendants are more limited than cities in their appellate rights. It was clarified that Mr. Nass was essentially advocating for the same appellate rights from justice courts to apply to municipal courts. Some members of the group felt this was a good proposal to

allow equity of treatment for the same behavior regardless of that behavior happening in city or county jurisdiction. Others felt this might encroach upon the will of individual cities on how to handle certain offenses within their jurisdiction. There was some disagreement as to how cases are generally tried and appealed when brought under city laws in current practice. Mr. Conrad from the League of Oregon Cities offered to seek input from cities as to whether they would oppose increasing appellate rights from municipal courts to equal that of justice courts. The importance to defendants of the ability to appeal non-constitutional issues of statutory preclusion was reemphasized to show how current laws do not allow such an appeal.

The group agreed that it would be important to have input from the cities before making a decision. The group also agreed to go back and individually review *Lincoln* to be able to better discuss its holding. A question to be further researched and discussed was whether these limitations on appeals do in fact apply to courts of record as it appears ambiguous in the statute (ORS 221.407 and 221.389), which research would include seeking out records on appeals from courts of record. Ms. Minifie found clarifying language in ORS 221.342 showing that courts of record in these cases follow the process outlined in ORS chapter 138. Mr. Conrad requested a process flow chart with reference statutes showing what happens with these kinds of cases on appeal (if applicable) for municipal and justice courts of record and not of record.

III. Scheduling

Ms. Zubko noted that the full Municipal and Justice Courts Work Group will be meeting again roughly one week from this meeting on July 15, 2026 at noon.