

Meeting Notes

Oregon Law Commission

Municipal and Justice Courts Work Group: Limitations on Municipal Appeals Small Work Group

September 4, 2026

I. Call to Order

In Attendance: Jim Nass, Charlie Conrad, Judge Daniel Cross, Judge Mary James, Jessica Minifie, Kimberly McCullough, Monte Ludington, Amy Zubko, Nora Robison

The small group met to continue discussing limitations on appeals of offenses arising from municipal courts after the August 19 meeting, when the group determined it needed a follow-up meeting.

II. Discussion

The concept under discussion identified several possible clarifications to municipal appeal statutes, including clarifying appeal rights to circuit court in prosecutions for municipal violations and misdemeanors, clarifying the effect of city limits on appeal, addressing review of constitutional challenges, limiting further appeals to the Court of Appeals, replacing references to “validity” with “constitutionality,” and clarifying city appeal rights when a municipal offense is determined unconstitutional. The group began by reviewing the statutes for those items and identifying which issues appeared generally acceptable. Several items appeared to be generally acceptable to the group, including changing references from “validity” to “constitutionality.” The remaining open question concerned appeals from municipal courts that are not courts of record when a city charter or ordinance limits appeal, and whether a constitutional challenge would be the only available avenue for review.

One concern was that earlier meetings did not include a League of Oregon Cities (LOC) representative, so the group had not had the opportunity to address the broader question whether the statutory limitation on appeals should be removed for cases that raise issues beyond the constitutionality of the offense. It was noted that Oregon now has twelve municipal courts of record, plus Portland’s administrative body for municipal offense cases, and that those jurisdictions account for a significant share of Oregon’s population. The discussion raised the question of why appeal rights should differ depending on whether a defendant’s case is heard in a court of record or a court not of record.

Charlie Conrad explained that the League of Oregon Cities would need more information before taking a position, particularly because the issue may implicate home rule authority and may

affect cities differently depending on the size and activity level of their municipal courts. He noted that Oregon has many municipal courts, including courts that meet only as needed or every other month, and that the effect on smaller and medium-sized courts was not yet clear. A participant observed that municipalities make decisions to limit appeals at the council level and that the question is larger than the small group deciding for cities by eliminating those limits. The group also discussed whether advancing a proposal without city support could jeopardize the other clarifying changes under consideration.

It was clarified that the work group is not subject to the same immediate drafting deadline as some other legislative concepts, but the Commission traditionally considers full proposals at its November meeting. Draft language and a report would need to be circulated in early November, and the drafter is drafting for more than one project. The group also identified the potential effect on the Oregon Judicial Department as an additional consideration if the limitation on appeal were removed.

The group discussed whether the limitation should be addressed differently for misdemeanors and for violations involving substantial financial penalties. Concern was raised that current statutory language could be read to limit appeals in municipal misdemeanor cases, and it was noted that some violation cases can involve significant monetary consequences. As an example, a case was discussed involving municipal code enforcement penalties that grew substantially before being reduced in municipal court and appealed.

There was disagreement about whether current law already preserves appeal rights in municipal misdemeanor cases. The view was expressed that misdemeanor appeal rights are available and that, as a practical matter, a prosecutor would not argue that a defendant could not appeal a misdemeanor conviction. Another participant took the position that appeal rights are statutory and that the statute's use of the term "offense" may create uncertainty because that term can include both violations and misdemeanors.

Provisions from HB 2460 were identified that may address misdemeanor appeals by referring certain misdemeanor proceedings to ORS chapter 138. The relevant section became ORS 221.405, and one cross-reference may need to be changed, although the work group has not yet discussed how to address it. The group discussed whether to revise a cross-reference to make the route from local court to circuit court clearer, while recognizing that this would not necessarily resolve any further appeal to the Court of Appeals.

It was cautioned that changes should be made carefully because each statutory change may invite new challenges or litigation, especially where the issue has not appeared to be causing current practical problems in the courts. Members were asked to reread the previously referenced City of Eugene case, while one member offered a different reading of that case and explained that the

court's discussion of constitutionality may reflect the procedure for addressing constitutional challenges before reaching other issues.

At the end of the meeting, the group summarized that it appeared generally agreeable to the proposal conceptually, subject to the remaining follow-up issues. Charlie Conrad will check with the League of Oregon Cities about concerns related to limiting city charters or ordinances that restrict appeals. Jessica Minifie will identify any additional language issues that need the group's attention.

III. Scheduling

The next full group meeting is September 16th.