



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

1900 SW 4th Avenue, Room 3100

Portland, OR 97201

phone: (503) 823-7307 - fax: (503) 823-4347

web: www.portlandoregon.gov/auditor/hearings



HEARINGS OFFICER'S ORDER

APPEAL OF Patrick Alan VanVoorhis

CASE NO. 1120049

DESCRIPTION OF VEHICLE: Fleetwood Wilderness
(No Plates - VIN #1ED5L3226M2358653)

DATE OF HEARING: April 3, 2012

APPEARANCES:

None

HEARINGS OFFICER: Mr. Gregory J. Frank

A Notice of Hearings was mailed to Mr. VanVoorhis on March 27, 2012. The Notice of Hearing provided Mr. VanVoorhis the date/time/place of the scheduled hearing (April 3, 2012 at 1:45 p.m. in Room 300, 1900 SW 4th Avenue, Portland, Oregon). Mr. VanVoorhis, at 2:07 p.m. on April 3, 2012, telephoned the Hearings Office and indicated that he had an emergency and would fax over details and requested that his hearing be postponed. The Hearings Officer, considering Mr. VanVoorhis' request to reschedule was received 22 minutes after the scheduled start of his hearing, denied the request to reschedule. However, the Hearings Officer agreed to keep the record open for case 1120049 until 3:00 p.m. on April 4, 2012, to allow Mr. VanVoorhis an opportunity to submit additional written documentation. Mr. VanVoorhis did provide additional documents (Exhibits 9 and 10). The Hearings Officer makes this decision based upon the documents admitted into the evidentiary record (Exhibits 1 through and including 10).

The Hearings Officer must find a tow valid if the Hearings Officer finds that the person ordering the tow followed the relevant laws/rules. In this case the relevant laws/rules are found in the Portland City Code ("PCC") Title 16. The specific sections of PCC Title 16 that are relevant to this case are found in PCC 16.20.120 and 16.30.225. PCC 16.20.120 states, in part, the following:

"Except when specifically directed by authority of this Title or when necessary to avoid conflict with other traffic, it is unlawful to park or stop a vehicle:

H. When the vehicle is: a truck, truck trailer, a motor bus, a recreational vehicle, a utility trailer, a drop box or storage container, or has two or more rear axles in the public right-of-way adjacent to or directly across from residential, public park, church, or school property, except:

1. When loading/unloading property belonging to the occupants of or performing a service on the adjacent residence, for a period not to exceed 8 hours; or
2. A recreation vehicle when servicing or loading/unloading the vehicle for a period not to exceed 8 hours.
3. That a vehicle may park adjacent to or directly across from public park property if authorized by a written permit from the Bureau of Parks and Recreation."

PCC 16.30.225 C. states, in part, the following:

"A vehicle may be towed 72 hours after notice of intent to tow has been affixed to or placed on the vehicle if the vehicle is in violation of 16.20.120 H or I or 16.20.170."

Mr. VanVoorhis, in his request for a tow appeal hearing (Exhibit 1), states that the tow of his 5th wheel trailer was invalid or otherwise unjustified for the following reasons:

"It was towed from where I parked in front of a friends home and was taged for being abanded or not being moved. This is NOT true as I moved it every 24 hours (as wittnessed) and was never off the truck (unhitched). Because of this repeated process is why I discovered it being towed having checked on it twice on 3-13-12. At this time having called many times and different numbers in effort to locate after you unhook from my truck -tow trailer- leaving my truck parked elsewhere. Bottom Line; I was not abanded & moved regularly."

Exhibit 10, the April 4, 2012, submission by Mr. VanVoorhis, describes the location of the 5th wheel license plate (inside a window of the 5th wheel). Exhibit 10 also states that someone "release[d] 5th wheel AND actually move 4 wheel drive pickup BACK 50 yards. Someone had to have driven it." Mr. VanVoorhis, in Exhibit 10, states once again that "we move pu & 5th wheel every 24 hrs."

The City of Portland Transportation Inspector (Peterson) submitted various documents into the record (Exhibits 5, 6, 7 and 8). The narrative section of Inspector Peterson's report (Exhibit 5) states the following:

"The 5th wheel trailer was found where reported in the 8400 BL SE 70th, on March 6, 2012 at 8:25 am. I affixed a 72 hour tow warning notice for Prohibited trailer on the street side window. There were no plates on the trailer. At that time the trailer was stationary on the ground. March 12th I went back to recheck. The trailer was hooked up to a pickup truck, but still there. At that time I cited it for tow."

Exhibit 5 contains a section (below the narrative quoted above) that states the following:

"Tow warning affixed to the vehicle stated; 'if this vehicle is not completely removed from the public right of way, it will be towed by the order of the City of Portland. After 72 hours from the issuance of this notice, this vehicle will be towed in

accordance with provisions of section 16.30.225 of the Portland Municipal Code.”

Exhibit 5 notes the violation as “Prohibited truck, trailer, bus, RV (16.20.120 H,I)” with the words “prohibited truck, trailer” circled.

Exhibit 6 is titled “Detail For Case No. AUT2012-002159” and indicates that Mr. VanVoorhis’ trailer was warned on March 6, 2012, at 8:25 for “proh RV. 5th wheel,” ordered towed at 8:41 a.m. on March 12, 2012, and towed on March 13, 2012. Exhibit 7 is a copy of a City of Portland Parking violation with comments stating “in violation of: 16.20.120 H” and under the comments section “warned 3 6 12.” At the bottom of Exhibit 7 are two color photographs showing a Wilderness Cimarron 5th wheel trailer. Exhibit 8 is a document entitled “Investigation Report.” Exhibit 8 indicates that the 5th wheel trailer that was ordered towed on March 12, 2012 by Inspector Peterson is a 33 foot 1991 Wilderness travel trailer. Exhibit 8 also states that the 5th wheel was warned at 8:25 am on March 6, 2012 and ordered towed on March 12, 2012.

The Hearings Officer finds that the VanVoorhis 5th wheel trailer was parked on the public right-of-way on March 6, 2012 (8:25 a.m.). The Hearings Officer finds that the VanVoorhis 5th wheel trailer remained upon the public right-of-way on March 12, 2012. Inspector Peterson, in Exhibits 5, 6 and 8, states that a Tow Warning Sticker was placed on the VanVoorhis 5th wheel trailer at 8:25 a.m. on March 6, 2012. Mr. VanVoorhis, in his statements, does not make any mention of a Tow Warning Sticker. Inspector Peterson, in Exhibit 7, indicates that a City of Portland Parking Violation was placed on the VanVoorhis 5th wheel trailer on March 12, 2012, at 8:41 a.m.. Mr. VanVoorhis, in his statements, does not make any mention of a City of Portland Citation.

The Hearings Officer finds that Mr. VanVoorhis has historically moved his pickup and 5th wheel trailer on a regular basis. The Hearings Officer finds that Mr. VanVoorhis moved the pickup and 5th wheel trailer “every 24 hours.” The Hearings Officer finds that Mr. VanVoorhis’ 5th wheel trailer is subject to the rules/regulations as set forth in PCC 16.20.120 H. The Hearings Officer finds that Mr. VanVoorhis’ 5th wheel trailer is permitted to park, on the public right-of-way within the City of Portland (in a residential area) when servicing/loading/unloading for a period of not to exceed 8 hours. Mr. VanVoorhis states that he “checks” or “moves” his 5th wheel trailer every 24 hours. Therefore, based solely upon the statements by Mr. VanVoorhis, the 5th wheel has regularly been parked on the public right-of-way in violation of PCC 16.20.120 H. The Hearings Officer finds that parking a 5th wheel trailer on the City of Portland public right-of-way, in excess of 8 hours will subject such trailer to being towed.

The Hearing Officer finds that a Notice of Tow was placed upon the VanVoorhis 5th wheel trailer for a period of time exceeding 72 hours. Therefore, the Hearings Officer finds that the notice requirements of PCC 16.30.225 C. are satisfied.

The Hearings Officer finds that Inspector Peterson followed all of the relevant laws/rules in ordering the VanVoorhis 5th wheel trailer to be towed. The Hearings Officer finds the tow of the VanVoorhis 5th wheel trailer on March 13, 2012, is valid.

ORDER:

1. The City of Portland ordered tow of the Mr. VanVoorhis’ 5th wheel trailer on March 13, 2012, is valid.

2. All towing and storage charges against the vehicle shall remain the responsibility of the vehicle's owner.
3. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: April 5, 2012
 GJF: jeg



 Gregory J. Frank, Hearings Officer

Enclosure

Bureau: Abandoned Autos
 Tow Number: 4280

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	VanVoorhis, Patrick Alan	Received
2	Tow Desk printout	Hearings Office	Received
3	Notice of Hearing	Hearings Office	Received
4	Statement of Rights and Procedures	Hearings Office	Received
5	Tow Hearing Report	Parking Enforcement	Received
6	Detail for Case: AUT2012-002159	Parking Enforcement	Received
7	Parking Citation: #HA08948541	Parking Enforcement	Received
8	Investigation Request	Parking Enforcement	Received
9	Request to Reschedule Form	VanVoorhis, Patrick Alan	Received
10	Letter	VanVoorhis, Patrick Alan	Received