



CITY OF  
**PORTLAND, OREGON**  
HEARINGS OFFICE

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**HEARINGS OFFICER'S ORDER**

APPEAL OF KELLY ANN ATTERBERRY

CASE NO. 1080266

DESCRIPTION OF VEHICLE: Nissan Maxima (WA 596MBC)

DECISION WITHOUT AN APPEARANCE

HEARINGS OFFICER: Mr. Ian Simpson

The Hearings Officer, on substantial evidence and based upon the record as a whole and receiving Exhibits 1 through 9 into the record without objection, finds as follows:

The towing officer's report (Exhibits 5 and 6) stated that a warning was placed on the subject vehicle on August 12, 2008 because it was considered to be abandoned. The vehicle had expired tags dated 05/08, and had no trip permit. The vehicle's circumstances were unchanged on August 20, 2008 and so it was towed, and more than the required 72 hours warning period had passed.

The appellant stated (Exhibits 1 and 7) that her vehicle had been stolen six months earlier, and it was towed without her knowledge or permission. The City Code authorizes an officer to tow a vehicle if the vehicle comes under the definition of an abandoned vehicle. The Hearings Officer finds that the facts in this case clearly show that the subject vehicle was an abandoned vehicle as defined by the Code.

Given these circumstances, this was a valid tow. Please note the relevant city code sections below concerning this matter.

**Portland City Code 16.20.120 Prohibited Parking or Stopping of a Vehicle.**

(Amended by Ordinance Nos. 165594, 166575, 170923, 173369, 176394 and 176955 effective October 9, 2002.) 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:

**P.** In the public right-of-way, public park, or city-owned or operated property if the vehicle is abandoned.

**Portland City Code 16.90.005 Abandoned Vehicle.**

A vehicle that remains in the same location for more than 24 hours and one or more of the following conditions exist:

**A.** The vehicle does not have a lawfully affixed, unexpired registration plate.

**B.** The vehicle appears to be inoperative or disabled.

C. The vehicle appears to be wrecked, partially dismantled or junked.

**16.30.225 Towing with 24 Hour or 72 Hour Notice.**

(Added by Ordinance No. 166947; amended by 170923, 172788 and 179141, effective March 23, 2005.)

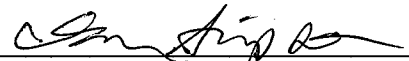
B. A vehicle may be towed 72 hours after notice of intent to tow has been affixed to or placed on the vehicle if the vehicle is an abandoned vehicle; or

Therefore, it is ordered that all towing and storage charges against the vehicle shall remain the responsibility of the vehicle's owner.

This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: September 12, 2008

IS: rs/cb



Ian Simpson, Hearings Officer

Bureau: Abandoned Autos

Tow Number: 23184

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Atterberry, Kelly Ann	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Tow Hearings Process Info. sheet	Hearings Office	Received
5	Tow hearing report	Abandoned Autos	Received
6	Case detail	Abandoned Autos	Received
7	Letter requesting decision without appearance	Atterberry, Kelly Ann	Received
8	Tow receipt	Atterberry, Kelly Ann	Received
9	Lake Forest Park Police Department Detail	Atterberry, Kelly Ann	Received