



CITY OF  
**PORTLAND, OREGON**  
HEARINGS OFFICE

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**HEARINGS OFFICER'S ORDER**

APPEAL OF JONATHAN & JENNIFER GERLACH

CASE NO. 1080270

DESCRIPTION OF VEHICLE: Starcraft Trailer (OR R792174)

DATE OF HEARING: September 2, 2008

APPEARANCES:

Ms. Jennifer Gerlach, Appellant

HEARINGS OFFICER: Mr. Ian Simpson

The Hearings Officer, on substantial evidence and based upon the record as a whole, and receiving Exhibits 1 through 7 into the record without objection, finds as follows:

The towing officer's report stated (Exhibit 6) that on August 7, 2008 a warning was placed on the appellant's trailer stating that it was a trailer prohibited being left for more than a short time on the public street. On August 15<sup>th</sup> the trailer was still on the public street, and so the officer had it towed.

The appellant stated both in her request for a hearing (Exhibit 1) and in the hearing that she did not see the warning sticker on the trailer when she returned from a trip on August 9 or thereafter until it was towed on August 15. She asked what evidence existed to show that the warning had been placed on the trailer. The Hearings Officer explained that the officer's report stated that the officer placed the warning on the trailer. The Hearings Officer also explained that the code requires that an officer place a warning on the vehicle 72 hours before it may be towed. The code does not require that the warning remain on the trailer, nor require confirmation that the owner saw the warning before the tow.

When there is an apparent contradiction in the facts presented, the Hearings Officer must weigh the evidence and determined what the more probable scenario is. In this case, the Hearings Officer finds that it is more probable that the appellant failed to see the warning, or it was removed from the trailer after the officer placed it. It is less probable that the officer mistakenly reported placing the warning on the trailer when he did not actually do so.

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

**16.20.120 Prohibited Parking or Stopping of a Vehicle.**

(Amended by Ordinance Nos. 165594, 166575, 170923, 173369, 176394, 176955 and 179141 effective March 23, 2005.) 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, a 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.

**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.)

**C.** 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.

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 9, 2008  
IS: cb/rs

  
Ian Simpson, Hearings Officer

Bureau: Abandoned Autos  
Tow Number: 22791

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Faxed hearing request letter	Gerlach, Jonathan & Jennifer	Received
2	Mailed original hearing request letter	Gerlach, Jonathan & Jennifer	Received
3	Tow desk report	Hearings Office	Received
4	Hearing notice	Hearings Office	Received
5	Tow hearing info. sheet	Hearings Office	Received
6	Tow hearing report	Abandoned Autos	Received
7	Case detail report	Abandoned Autos	Received