



CITY OF  
**PORTLAND, OREGON**

HEARINGS OFFICE

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**HEARINGS OFFICER'S ORDER**

APPEAL OF EMMA LAVINE

CASE NO. 1080380

DESCRIPTION OF VEHICLE: Chevrolet, Unknown Make (OR TUW497)

DATE OF HEARING: December 30, 2008

APPEARANCES:

Ms. Emma Lavine, 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 (Exhibit 6) stated that a warning was placed on the subject vehicle on December 3, 2008 because it was considered to be abandoned. The vehicle had expired tags and the left rear tire was flat. The officer returned on December 8 and found the vehicle parked partly in a driveway and partly across the sidewalk. The vehicle was still in the public right-of-way. The tire was still flat and the tags were still expired. It was towed on December 8, and more than the required 72 hour warning period had passed.

The appellant stated that she believed the tow is invalid because it was towed from her driveway and because it was not abandoned. She stated that only about a fourth of the vehicle extended into the sidewalk. The City Code definition of an abandoned vehicle includes a vehicle on the public right-of-way with expired tags. The appellant's vehicle was parked on the public right-of-way and had expired tags when the warning was placed on it. The sidewalk is part of the public-right-of-way, and so the vehicle was still considered abandoned when it was towed. In addition, even if only a part of the vehicle is parked in the public right-of-way, it can be towed.

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: December 31, 2008

IS: rs



Ian Simpson, Hearings Officer

Bureau: Abandoned Autos  
Tow Number: 32847

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Lavine, Emma	Received
2	Tow Receipt	Lavine, Emma	Received
3	Tow Desk printout	Hearings Office	Received
4	Hearing Notice	Hearings Office	Received
5	Tow Hearings Process Info. sheet	Hearings Office	Received
6	Tow hearing report (says Case #1080230/info. appears to match appellant)	Abandoned Autos	Received
7	Case detail report	Abandoned Autos	Received