



**CITY OF**  
**PORTLAND, OREGON**  
**OFFICE OF THE CITY AUDITOR**  
**Hearings Office**

**LaVonne Griffin-Valade, City Auditor**  
1900 SW 4<sup>th</sup> Avenue, Room 3100  
Portland, Oregon 97201  
Telephone: (503) 823-7307  
Fax: (503) 823-4347  
TDD: (503) 823-6868  
[www.portlandonline.com/auditor/hearings](http://www.portlandonline.com/auditor/hearings)

**HEARINGS OFFICER'S ORDER**

**APPEAL OF JENNIFER ERIN MORSE**

**CASE NO. 1100041**

**DESCRIPTION OF VEHICLE: Volkswagen Jetta (OR 488DYW)**

**DATE OF HEARING: April 1, 2010**

**APPEARANCES:**

**Jennifer Erin Morse, Appellant**

**HEARINGS OFFICER: Ms. Christina A. Austin-Smith**

Ms. Morse appeared at the hearing and testified on her own behalf. No person appeared on behalf of the City. The Hearings Officer makes this decision based on substantial evidence upon the record as a whole, which includes the testimony of Ms. Morse and the documents admitted into evidence (Exhibits 1 through and including 17).

Ms. Morse testified that she has a Zone A parking permit and parked her car in a Zone A parking space on Tuesday, February 23, 2010. She left her car in this space when she departed the following day for a business trip to Seattle. Ms. Morse testified that she returned from her business trip on Saturday, February 27, 2010, but did not check on her vehicle. On Sunday, February 28, 2010, Ms. Morse discovered her car was gone and there was a temporary No Parking sign covering the Zone A parking sign, which was difficult to see due to partial obstruction by a tree. Ms. Morse testified this sign was not in place when she parked her car on Tuesday, February 23, 2010. Ms. Morse submitted Exhibits 14-17 to illustrate how the temporary No Parking sign was blocked by the tree and documents proving she was in fact in Seattle on business during the above timeframe.

Officer John Wheeler submitted a tow hearing report, copy of the parking violation citation and photos taken prior to the tow (Exhibits 7-9). He reports that he received a complaint on February 26, 2010, at 8:54 a.m. about a vehicle being parked in a temporary No Parking zone. Officer Wheeler confirmed that the barricades and signs were posted and verified on Thursday, February 25, 2010, at 9:36 a.m. Photos illustrate a No Parking sign on the curb that reads: "No Parking 7 a.m. to 6 p.m. Mon thru Fri" in front of the parking spot where Ms. Morse had her car. After confirming the signs had been in place for 24 hours, Officer Wheeler ordered the vehicle to be towed for violating a temporary No Parking zone at 9:47 a.m. on Friday, February 26, 2010.

The Hearings Officer must find a tow is valid if the person ordering the tow followed the relevant laws/rules. In this case, the relevant laws/rules can be found in the Portland City Code ("PCC") Title 16. PCC 16.20.170A states that "no person may store, or permit to be stored, a vehicle or other personal property on public right-of-

way or other public property in excess of 24 hours without permission..." PCC 16.20.170B states that "failure to operate and move a vehicle or move nonvehicular property off of the block face within a 24-hour period constitutes prima facie evidence of storage and may be abated." PCC 16.20.860B, which governs violations and enforcement of the Area Parking Permit Program, states that the permit "does not authorize parking in any other restricted zone. Permitted vehicles are subject to the provisions of 16.20.170." PCC 16.20.205C states "a sign which prohibits parking during certain hours or days such as 'No Parking 7 a.m. to 9 a.m. Monday through Friday' ... is in effect during the days and times shown on the sign, excluding City recognized holidays." PCC 16.30.210A authorizes the City to tow a vehicle and be held at the expense of the owner if it is parked in the public right-of-way and "is parked in violation of a temporary or permanent parking restriction" (PCC 16.30.210A1) or "the vehicle is stored on the street in violation of 16.20.170" (PCC 16.30.210A11). PCC 16.30.210D states "temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter area." PCC 16.30.220B allows an officer to order a vehicle towed without prior notice when it is illegally parked in a conspicuously posted restricted space.

The Hearings Officer finds that Ms. Morse properly parked her car in a Zone A permitted parking area on Tuesday, February 23, 2010. The Hearings Officer also finds that on Thursday, February 25, 2010 at 9:36 a.m. temporary No Parking signs reading "No Parking 7 a.m. to 6 p.m. Mon thru Fri" were posted via barricade and other signs in the location where she was parked. The Hearings Officer finds that Ms. Morse did not see these signs because at the time, she was on a business trip in Seattle. The Hearings Officer finds that on Friday, February 26, 2010 at 9:47 a.m. Officer Wheeler properly ordered Ms. Morse's vehicle towed, because it remained in violation of a temporary No Parking zone that had been properly posted 24-hours prior. The Hearings Officer finds that even though Ms. Morse clearly had no knowledge of her violation at the time of the tow, and did not intend to violate the temporary No Parking zone this does not negate her liability for the towing in this case, because she was in violation of PCC 16.20.170 for having "stored" her vehicle on the public right-of-way for longer than 24 hours without permission. Ms. Morse's Zone A parking permit does not allow her to violate this code provision. Additionally, the Hearings Officer finds that no prior notice of the tow itself was required, because Ms. Morse's vehicle was illegally parked in a conspicuously posted restricted space. While Exhibit 14 and 17 do indicate it was difficult to see the bag placed over the Zone A parking sign from that angle, Exhibit 9 clearly shows a barricade sign that was in place 24-hours prior to the tow, as well as at the time of the tow, indicating parking in that space was temporarily prohibited.

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: April 2, 2010  
CAS: cb



Christina A. Austin-Smith, Hearings Officer

Enclosure

Bureau: Parking Enforcement  
Tow Number: 3697

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Tow appeal form w/letter attached	Morse, Jennifer Erin	Received
2	Tow desk printout	Hearings Office	Received
3	Hearing notice	Hearings Office	Received
4	Tow hearing info. sheet	Hearings Office	Received
5	Request to reschedule	Morse, Jennifer Erin	Received
6	Hearing Notice	Hearings Office	Received
7	Tow Hearing Report	Parking Enforcement	Received
8	Parking Violation	Parking Enforcement	Received
9	Photos	Parking Enforcement	Received
10	Request to reschedule	Parking Enforcement	Received
11	Hearing Notice	Hearing Office	Received
12	Request to reschedule	Morse, Jennifer Erin	Received
13	Hearing Notice	Hearings Office	Received
14	Photo	Morse, Jennifer Erin	Received
15	Data printout called Picasa Photo Viewer	Morse, Jennifer Erin	Received
16	Copy of email	Morse, Jennifer Erin	Received
17	Photo	Morse, Jennifer Erin	Received