



# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

APPEAL OF DEBBRA M. AND JOHN B. BUERKLE

CASE NO. 1120145

DESCRIPTION OF VEHICLE: Nissan Pathfinder (OR 684EPT)

DATE OF HEARING: August 21, 2012

### APPEARANCES:

Ms. Brie Buerkle, Authorized Representative for Appellants

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Buerkle appeared at the hearing and testified on behalf of the Appellants. No one 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. Buerkle and the documents admitted into evidence (Exhibits 1 through and including 10).

### Summary of Evidence:

The Appellants submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of their vehicle on August 9, 2012. The Appellants write that the "parking signs indicate that a Zone L permit excepts one from the posted time limits." The Appellants submitted a photo, Exhibit 2, of the signage in the area where the vehicle was parked. The photo shows three signs hanging on the same post. The uppermost sign indicates that the area to the right of the signpost is a truck loading zone between 7-11 a.m. Monday through Friday. The middle sign indicates that parking is limited to 2 hours to the left of the sign post. The lowest sign indicates that the area to the right of the sign post is a 90 minute visitor parking area on August 25, 2012, August 31, 2012 and September 15, 2012 during the listed hours. The lower portion of the sign indicates that parking is permitted beyond 90 minutes on the above-listed dates, if the vehicle has a Zone L permit. Ms. Buerkle testified at the hearing that there were two signs with arrows pointing toward where the vehicle was parked. Ms. Buerkle testified that she has a Zone L permit and that she believes that the permit excepts her from other parking restrictions, specifically the truck loading zone restriction. Ms. Buerkle testified that the Zone L permit was hanging on her rearview mirror at the time of the tow.

The City submitted Exhibits 6 through, and including, 10 for the Hearings Officer's consideration. Exhibit 6 is a Tow Hearing Report from the Office of Transportation Parking Enforcement Division. The report indicates that

the vehicle was towed on August 9, 2012 from the north side of NW Flanders Street between NE 18<sup>th</sup> and NW 19<sup>th</sup>. The narrative portion of the report indicates that the vehicle was first located on August 8, 2012 at 8:02 a.m. parked in a truck loading zone, and that the vehicle was cited and a warning was placed on the windshield at that time. The report indicates that the vehicle remained in the same location on August 9, 2012 at 8:35 a.m., and at that time it was cited and a tow was ordered. The report indicates that the vehicle is a passenger vehicle and is not permitted in the truck loading zone. Exhibits 7 and 9 are copies of the citations issued on August 8, 2012 and August 9, 2012. Exhibits 8 and 10 are photos taken at the time of each citation. The photos show the vehicle parked next to the sign post containing the three signs referenced above. The photos also show the Zone L permit hanging from the vehicle's rearview mirror.

**Applicable Law:**

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 16.20.220B provides that only the following vehicles, while being actively loaded or unloaded, may park in a truck loading zone for no more than 30 minutes: 1. A truck; 2. A vehicle defined by its DMV registration as a truck, van, or pick-up that exhibits the commercial nature of the vehicle; 3. A passenger or other vehicle with an official commercial loading permit; 4. Any vehicle with Farm Vehicle registration plates; 5. Taxicabs. PCC 16.30.210A1 permits a vehicle to be towed if it is parked in violation of a temporary or permanent parking restriction. PCC 16.30.220 A permits a vehicle to be towed without prior notice and stored, at the owner's expense, when the vehicle is impeding or likely to impede the normal flow of vehicular or pedestrian traffic.

PCC 16.20.860 addresses violations of and enforcement of the Area Permit Parking Program. PCC 16.20.860A provides that "An area parking permit does not allow parking in restricted parking zones."

**Findings of Fact and Conclusions of Law:**

The Hearings Officer finds that on August 8, 2012, a Wednesday, the Appellants' vehicle was parked in a zone which is reserved for truck loading between 7-11 a.m. Monday through Friday. The Hearings Officer finds that the vehicle remained in the restricted zone on August 9, 2012 between the hours of 7-11 a.m. The Hearings Officer finds that the vehicle is a passenger vehicle and is not permitted to park in a truck loading zone. The Hearings Officer finds that a Zone L permit does not allow the vehicle to be parked in a truck loading zone. The Hearings Officer finds that the vehicle was parked in violation of a permanent parking restriction and was impeding the normal flow of traffic into and out of the zone. The Hearings Officer finds the tow of the Appellants' vehicle on August 9, 2012 to be valid.

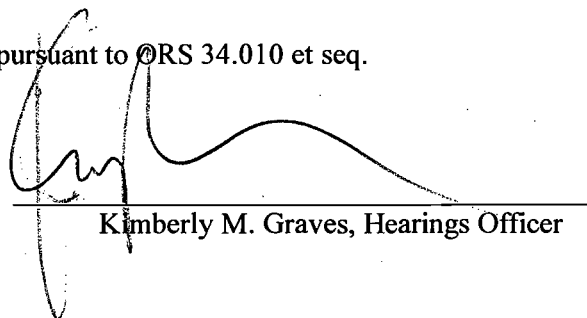
**Order:**

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: August 23, 2012  
KMG:c1

Enclosure



Kimberly M. Graves, Hearings Officer

Bureau: Parking Enforcement  
Tow Number: 12306

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Tow Hearing Request Form	Buerkle, Debbra M. and John B.	Received
2	Photo	Buerkle, Debbra M. and John B.	Received
3	Tow Desk printout	Hearings Office	Received
4	Hearing Notice	Hearings Office	Received
5	Notice of Rights and Procedures	Hearings Office	Received
6	Tow Hearing Report	Parking Enforcement	Received
7	Parking Violation	Parking Enforcement	Received
8	Photos	Parking Enforcement	Received
9	Parking Violation	Parking Enforcement	Received
10	Photos	Parking Enforcement	Received