

**CHELAN COUNTY**

**DEPARTMENT OF HEARING EXAMINER**

316 WASHINGTON STREET, SUITE 301  
WENATCHEE, WASHINGTON 98801

**BEFORE THE CHELAN COUNTY HEARING EXAMINER**

**IN THE MATTER OF:**

AA 2022-041

Holmberg

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**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
DECISION ON  
ADMINISTRATIVE APPEAL**

**I. FINDINGS OF FACT**

1. The Applicant submitted an Administrative Appeal of the denial of a short-term rental permit as an existing non-conforming short-term rental.
2. The Appellant/owners are Erik J. and Patricia F. Holmberg, 225 E. Parkway Dr., Manson, WA 98831.
3. The subject property is currently used as an unpermitted short-term rental. The legal description is WAPATO RIDGE LOT 25 LOT 25 PHASE II ACRES 0.0800 in the Urban Residential (UR3) Zoning District. The Parcel No. is 28-21-35-940-250.
4. The applicant submitted an Existing Non-Conforming Short-Term Rental Application on December 12, 2021 to continue use as a short-term rental. The Applicant was denied the permit as the property did not meet criteria for the classification.
5. Pursuant to Chelan County Code Section 11.88.290 (2)(C)(iv), the Board of Chelan County Commissioners adopted the cities of Cashmere, Chelan, Entiat, Leavenworth, and Wenatchee land use regulations, development standards and land use designations, as they apply to short-term or vacation rentals of fewer than thirty consecutive nights or days, within the county adopted unincorporated urban growth area respecting each city as it is now or is hereafter amended for the cities of Cashmere, Chelan, Entiat, Leavenworth, and Wenatchee; provided, that any city regulation requiring acquisition of a business license is not adopted nor incorporated as a county regulation and that instead a conditional use permit may be required, and the county's review procedures in this section must control.

(a) Upon the date of the adoption of this code on September 27, 2021, any existing short-term rentals within the exterior boundaries of any city's designated urban growth area (UGA) are required to have been in full legal compliance with any existing city codes adopted through prior resolution by the county as they applied to short-term rental uses within that UGA.

(1) If a short-term rental use is operating in violation of the existing county-adopted city codes for that UGA the rental must immediately cease all operation of that use on the date of adoption of this chapter. A property operating in violation of existing city UGA land use regulations has no legal existing nonconforming status as a short-term rental.

(b) All existing nonconformance claims within a UGA will be subject to joint review by the county and the affected city.

(c) New short-term rental applicants will be required to comply with the most current city regulations for short-term rental use for each city UGA, which are herein adopted and incorporated under subsection (2)(C)(iv) of this section upon adoption of this code chapter, including if any UGA code prohibits new or continued existing short-term rentals in those zones.

6. CCC 11.88.290 (2)(E)(iii) addresses non-conforming short-term rental units in the Manson UGA. Where a short-term rental is located in the Manson UGA, only those short-term rentals that were properly registered as a vacation rental and meet criteria in Subsection (2)(E)(i), shall be considered legal non-conforming according to Chapter 11.88.290 CCC, provided the short-term rental is allowed a grace period of operation in which to fully attain compliance with all current rental standards as provided in Subsection (2)(E)(i).
7. The Applicant submitted materials via email to apply for an Existing Non-Conforming Short-Term Rental. The application materials were received 12/12/2021 and 12/14/2021.
8. On December 13, 2021, materials were received for an Existing Non-Conforming Short-term Rental Permit.
9. The property in question is located at 225 E Parkway Dr., Manson, Washington 98831. The previous owner had held a VR permit which was last renewed for 2016, the date current owner purchased property. The current owner has never held a VR permit.
10. To be eligible for a Chelan County permit, CCC 11.88.290 Subsection (2)(E)(i)(f) states that if in Manson, the short-term rental was to have been properly registered as a vacation rental with Chelan County per CCC 11.23.040 as of August 25, 2020, or that the short-term rental owner held a vacation rental permit in the Manson UGA as of July 28, 2019 or in 2020 prior to August 25, 2020. This applicant did not satisfy this criteria.
11. The letter of denial was sent to applicant 1/13/2022 citing Chelan County Code (CCC) (2)(E)(i)(f), 'If located inside the Manson Urban Growth Area, documentary evidence that the short-term rental was properly registered as a vacation rental with Chelan County per CCC 11.23.040 as of August 25, 2020, or that the short-term rental owner held a vacation rental permit in the Manson UGA as of July 28, 2019 or in 2020 prior to August 25, 2020. This documentary evidence also satisfies the requirements found in (2)(E)(i)(a) above provided failure to accurately represent and disclose a property's short-term rental history is grounds for immediate permit denial or revocation, and loss of all existing non-conforming status.'
12. The property was not properly registered as a vacation rental with Chelan County per CCC 11.23.040 in the relevant time frame as specified in CCC 11.88.290 (2)(E)(iii).
13. On January 26, 2022 the administrative appeal (AA-22-041) was filed with Chelan County Community Development with the associated application fees.

14. Chelan County Code Section 14.12.010: Administrative appeals.
  - 14.1 An administrative appeal to the hearing examiner shall be filed with the department within ten working days of the issuance of the decision appealed, together with the applicable appeal fee.
  - 14.2 The notice of appeal shall contain a concise statement identifying:
    - 14.2.1 The decision being appealed; (B) The name and address of the appellant and his/her interest(s) in the application or proposed development; (C) The specific reasons why the appellant believes the decision to be erroneous, including identification of each finding of fact, each conclusion, and each condition or action ordered which the appellant alleges is erroneous. The appellant shall have the burden of proving the decision is erroneous; (D) The specific relief sought by the appellant; (E) The appeal fee.
15. After due legal notice, an open record public hearing was held via Zoom video conference on April 6, 2022.
16. Admitted into the record were the following:
  - 16.1 AA 21-041 Application Materials;
  - 16.2 Denial letter of permit application for Existing Non-Conforming Short-Term Rental dated January 13, 2022;
  - 16.3 Staff Report.
17. Appearing and testifying at the hearing were Erik and Patricia Holmberg. Mrs. Holmberg testified she is the Applicant and property owner. Mrs. Holmberg testified consistent with her appeal materials. Mrs. Holmberg further testified that they were not aware that a permit was required in the Manson Urban Growth area prior to submitting their application for the Chelan County permit. She indicated that the rental agency that they employed to manage their rental failed to obtain the required permit. She stated that they have paid all required taxes for income generated on this rental. She asked that this rental be granted an exception and be grandfathered in under the Chelan County Code.
18. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein as such by this reference.

## **II. CONCLUSIONS OF LAW**

1. The Hearing Examiner has been granted authority to render this Decision.
2. Chelan County Code Section 11.88.290 (2)(E)(iii) governs Non-conforming short-term rental units in the Manson UGA. Where a short-term rental is located in the Manson UGA, only those short-term rentals that were properly registered as a vacation rental and meet criteria in Subsection (2)(E)(i), shall be considered legal non-conforming according to Chapter 11.88.290 CCC, provided the short-term rental is allowed a grace period of operation in which to fully attain compliance with all current rental standards as provided in Subsection (2)(E)(i).
3. The owner has not held a vacation rental permit which was required in the Manson UGA per CCC 11.23.040 since the 2018 permit year.

4. Code 11.88.290 Subsection (2)(E)(i)(f) states that if in Manson, the short-term rental was to have been properly registered as a vacation rental with Chelan County per CCC 11.23.040 as of August 25, 2020, or that the short-term rental owner held a vacation rental permit in the Manson UGA as of July 28, 2019 or in 2020 prior to August 25, 2020. This applicant did not hold a VR permit in the relevant time frame.
5. The Appellant's unpermitted short-term rental property is not eligible for a short-term rental permit pursuant to CCC 11.88.
6. The Appellant's request for a short-term rental permit is inconsistent with the provisions of the Chelan County Code.
7. Any Finding of Fact that is more correctly a Conclusion of Law is incorporated herein as such by this reference.

### III. DECISION

WHEREFORE, based upon the above Findings of Fact and Conclusions of Law, the Hearing Examiner finds that the denial be **AFFIRMED** based on the applicant not qualifying for this status based on CCC 11.88.290 and that the applicant did not obtain or hold a Manson Vacation Rental permit in the relevant time frame as required to qualify for the Existing Non-Conforming Short-Term Rental permit.

Dated this 11th day of April, 2022.

CHELAN COUNTY HEARING EXAMINER

  
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Andrew L. Kottkamp

**This decision is subject to appeal pursuant to the Chelan County Code. Appeals must be timely filed. Anyone considering an appeal of this decision should seek immediate legal advice.**