

CHELAN COUNTY

DEPARTMENT OF HEARING EXAMINER

316 WASHINGTON STREET, SUITE 301
WENATCHEE, WASHINGTON 98801

BEFORE THE CHELAN COUNTY HEARING EXAMINER

IN THE MATTER OF:)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW AND
AA 23-041)	DECISION ON ADMINISTRATIVE
Fromm Land Co.)	APPEAL

I. FINDINGS OF FACT

1. A request for an Administrative Appeal was submitted to appeal the denial of a renewal application for a short-term rental.
2. The Owners/Appellants are Fromm Land CO LLC and their agents are Kathy Ward & Cindy Burnett.
3. The project location is 8898 E LEAVENWORTH RD., LEAVENWORTH, WA 98826. The legal description is T 24N R 17EWM S 13 PT NESENW 2.0000 ACRES. The Parcel Number is 24-17-13-240-150. The zoning district is RURAL RESIDENTIAL 5 (RR5).
4. The subject property was permitted for 2021/2022 as a short term rental.
5. The Applicant submitted a Short-Term Rental Renewal Application on September 15, 2022 to continue use as a short-term rental, which was within the renewal deadline. The Applicant was denied the permit renewal as they did not meet the renewal application criteria.
6. The applicants did not submit required proof of signage within the deadline to be eligible for renewal. The lack of the required signage resulted in denial of the renewal application.
7. Per Chelan County Code 11.88.290 (2)(E)(i)(c)- That the short-term rental meets all requirements of subsection (3) of this section within one year of the effective date of the ordinance codified in this section; provided, that legally required health and safety provisions within subsection (3) of this section including garbage, consumer safety, fire safety and outdoor burning, and property management plan communications provisions are met within ninety days of the effective date of the ordinance codified in this section, except that in the Manson urban growth area, all provisions consistent with Section 11.23.040 as it existed on August 25, 2020, shall be met on the effective date of the ordinance codified in this section.
8. Chelan County Code 11.88.290 (2)(E)(i)(g)- Any property owner claiming existing nonconforming status as a short-term rental within any Zip Code, subarea, or urban growth area shall resolve any existing county code violations on the property as required under

subsection (4)(A)(ii) of this section and shall have complied with all other relevant provisions of this section and apply for and have received an initial short-term rental administrative land use permit and all required conditional use permits under subsection (4) of this section by December 31, 2022, or by failing to do so shall waive all claim to having existing nonconforming status.

9. Per Chelan County Code 11.88.290(3)(G)- Signs:

9.1 (i) All owners or operators must display and maintain the address of the residence so that it is clearly visible from the street or access road in compliance with Section 10.20.520 requirements. The rental must also display and maintain an additional sign outside identifying the property as short-term rental and displaying the Chelan County short-term rental registration number and central phone number required by the county. The sign must not exceed eight square feet in area and if illuminated, must be indirectly illuminated, and letters and numbers must at a minimum four inches in height.

9.2 (ii) Placement of the Sign.

9.2.1 (a) For short-term rental structures located fifty feet or less from the primary road, the sign text shall be displayed on the side of the structure facing the road and shall be visible from the road designated in the assigned address.

9.2.2 (b) For short-term rental structures located fifty feet or more from the primary road, or for buildings not visible from the road, the sign text shall be posted inside the owner's property line at the access point to the road designated in the assigned address.

9.3 (iii) If the permanent contact information changes during the permit period, the new information must be changed on the sign. Renewal applications must provide evidence of the sign.

9.4 (iv) The director may allow annual mailings to adjacent properties and an interior posted notice for tenants in lieu of an exterior sign where a property's size and visibility make an exterior sign ineffective, or if for reason of improving security. The owner shall provide verification of mailings and a copy of the notice with the annual permit renewal.

10. Pursuant to CCC 11.28.290(4)(J)(i), to receive approval or renewal of a short term permit the "owner must demonstrate to the satisfaction of the Director that all approval criteria listed below have been satisfied . . . (c) the short term rental is consistent with the short term rental standards of this section."

11. A part of the approval criteria is proof within the renewal application, that there is proper signage at the short term rental.

12. The initial application for a short term rental permit had been finalized with a condition due to a septic deficiency. This deficiency was initially brought to applicant's attention May 3, 2022 via email. Community Department staff then informed applicant in a May 9, 2022 email that in order to renew in the Fall, the septic issue would need to be resolved. The May 9, 2022 email had a reminder to get a photo of the sign in to the Community Development office.

13. The Applicant's agent had communicated with the Community Development department during the process of septic inspections, application through the health district, etc. The process lingered into the Fall of 2022 and the applicant was concerned about not meeting the completion deadline. The Interim Director of Community Development agreed to allow an extension for completion of the septic work to Spring 2023 due to the installation company not being able to complete work before snowfall in 2022. This was allowed on the condition that an accepted, signed bid be submitted to the Department, which it was.
14. No extension or exception was made for required signage.
15. On November 16, 2022, Community Department staff sent an email to the person listed as owner on the initial application stating they were ready to process their renewal application but could not proceed as it was found they had never received the required proof of signage. The Applicant had not provided required proof of signage by deadline.
16. The property owner is ultimately responsible for their property. While they may delegate certain actions if they choose, Community Development staff will send general communications to the owner if it has not been specifically requested that they go to another party. Such a request was not made.
17. The denial of permit renewal for Short Term Rental dated January 12, 2023 was provided to the Applicant.
18. On January 24, 2023, the administrative appeal (M -23-041) was filed with Chelan County Community Development by the applicant with the associated application fees. Attached to that request was also proof of signage.
19. The Community Development staff followed the short-term rental code (11.88.290) and decisions made to hold all applicants to the same standard. On page two of the short-term rental application (both new and renewal), the applicant initialed the acknowledgements and signed at the bottom under the statement, "I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true, correct, and complete.". Of those, the eighth acknowledgement states, "I shall, as designated in CCC 11.88.290 (3)(G), display and maintain the address of the residence so that it is clearly visible from the street or access road in compliance with Section 10.20.520 requirements. The rental must also display and maintain an additional sign outside identifying the property as short-term rental and displaying the Chelan County short-term rental registration number and contact phone number required by the county. The sign must not exceed eight square feet in area and if illuminated, must be indirectly illuminated, and letters and numbers must at a minimum four inches in height. The twelfth acknowledgement states, "I certify that I am the property owner, or authorized agent of the property owner, and I have familiarized myself the rules and regulations of Chelan County with respect to making this application." The fifteenth acknowledgement states- "I acknowledge and agree that my short-term rental permit expires each year on December 31 and that I am required to apply for renewal no later than October 31 of the preceding year."
20. After due legal notice, an open record public hearing was held via Zoom video conference on April 4, 2023.
21. Admitted into the record were the following:
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- 21.1 Ex. A Denial of permit application renewal extension for Short-Term Rental dated January 12, 2023.
 - 21.2 Ex. B AA 23-041 Application Materials
 - 21.3 Ex. C May 3, 4, 9, 2022 emails between staff and applicant
 - 21.4 Ex. D September 6 – October 27, 2022 emails between agent and staff.
 - 21.5 Ex. E November 16, 2022 email from staff to owner on application.
 - 21.6 Ex. F Staff Report.
- 22 Appearing and testifying at the hearing on behalf of the Appellant was Kathleen Ward. Ms. Ward candidly admitted that she agreed with the staff report. She agreed that a complete application was not submitted by the application deadline. She thought they had provided all the required materials, but a photo of the sign was not provided. She stated that the notice of deficiency in the application was sent in November of 2022, but that Ms. Ward did not receive it because it was sent to her sister, who is one of the owners of the property. She stated that her sister did not see or receive the email. They could not find it on her computer. Her concern was that she was not also sent a copy of this email. Her concern is based on the fact that she had been copied on other communications with the County.
- 23 On questioning from the Hearing Examiner, staff indicated that the email reminder was not returned as not deliverable, or returned to the County for any reason. The email reminder was sent to the email address that was on the original application materials.
- 24 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 14.12.010: Administrative appeals:
 - (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.
 - (2) The notice of appeal shall contain a concise statement identifying:
 - (A) 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.
3. By not submitting an application with all the required information, the Applicant failed to demonstrate to the satisfaction of the Director that all approval criteria had been satisfied.
4. 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 dated January 12, 2023 is hereby **AFFIRMED** based on the fact the Applicant did not meet the renewal application criteria.

Dated this 6 day of April, 2023.

CHELAN COUNTY HEARING EXAMINER



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.