

**CHELAN COUNTY**

**DEPARTMENT OF HEARING EXAMINER**

316 WASHINGTON STREET, SUITE 301  
WENATCHEE, WASHINGTON 98801

**BEFORE THE CHELAN COUNTY HEARING EXAMINER**

<b>IN THE MATTER OF:</b>	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW AND</b>
AA 23-047	)	<b>DECISION ON ADMINISTRATIVE</b>
Harrison	)	<b>APPEAL</b>

**I. FINDINGS OF FACT**

1. This Administrative Appeal was submitted to appeal the denial of a permit renewal for a short-term rental.
2. The Owners/Appellants are Jonah O. Harrison, et at.
3. The project location is 25819 Camp 12 Rd. The legal description is PRIMITIVE PARK NO 5 BLOCK 8 LOT 19, LOT B BLA 2004-020, 0.2100 ACRES. The Parcel Number is 26-17-24-794-580. The zoning district is RURAL WATERFRONT (RW).
4. The subject property was permitted for 2021/2022 as a short term rental.
5. The Applicant was permitted to operate a STR in 2021/2022, but did not submit a Short-Term Rental Renewal Application to continue use as a short-term rental prior to the October 31st deadline. The Applicant also did not provide proof of signage as required. The Applicant was denied the permit renewal as they did not meet the renewal application criteria.
6. Applicant initially submitted an Existing Nonconforming Short Term Rental application on December 23, 2021.
7. After communication between Community Development staff and Annie Tegan, requirements were met to receive provisional permits which were issued in February 2022 to continue operation until full review was completed by staff.
8. Between March 1, 2022 and August 24, 2022, there was communication between Ms. Tegan and staff regarding the final processing.
9. On October 10, 2022, staff emailed the final permit to Ms. Tegan with a cover sheet. The final permit had the permit number on it and the cover sheet noted need to return signed copy of permit, that the permit number needed to be on all advertisements and online listings, that the permit would need to be renewed annually, sign requirements, information specific to signage from the STR code, and the need to submit photographic proof of the sign.

10. October 12, 2022, staff emailed a reminder to Applicant to return the signed copy of the permit, proof of signage, the deadline for upcoming renewal, and the need to submit signed permit and proof of sign to be renewed. The Applicant/Appellant denies receiving this email. This email was not returned to staff as “undeliverable”.
11. On November 22, 2022, staff emailed Ms. Tegan a reminder to submit signed permit and proof of signage.
12. 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;
13. Per Chelan County Code 11.88.290(3)(G)- Signs:
  - 13.1 (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.
  - 13.2 (ii) Placement of the Sign.
    - 13.2.1 (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.
    - 13.2.2 (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.
  - 13.3 (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.
  - 13.4 (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.
14. Per Chelan County Code (4)(B)- Annual Renewal:

- 14.1 (i) The department shall by September 1st of each year, mail a renewal reminder notice to the permitted owner or operator, sent to the postal address or the email address on file reminding of the renewal requirement of the rental permit requirement.
- 14.2 (ii) A permit expires on December 31st of each year, regardless of when it is issued.
- 14.3 (iii) All annual permitting fees are not pro-rated.
- 14.4 (iv) All permit renewal applications for permitting year 2023, and beyond, must be received by October 31st of the preceding year.
  - 14.4.1 (a) At their discretion the director may, upon showing of a hardship reason for applicant's delay, accept permit renewal applications received after October 31st but before December 31st of the same year and may assess double the normal fees for permitting, provided the short-term rental may not continue operation past December 31st until the permit application is approved and a permit issued.
  - 14.4.2 (b) Permit renewal applications received after December 31st will not be accepted, and the short-term rental must immediately cease operations on January 1st of the following year. The owner and property lose any vesting to continue operation as a legally conforming or nonconforming short-term rental under this chapter. Expired short-term rentals under this subsection are then subject to the housing cap provisions of subsection (2)(B) of this section and must apply as a new short-term rental if all other provisions of this section allow, and consistent with the applicable district use chart.
15. The sign was not posted by the deadline and the renewal application was not submitted within the deadline. The Applicant did not qualify for renewal.
16. The department sent out the renewal post card to the address on file for the owner: 5231 Kensington Pl. N., Seattle, WA 98103, per 11.88.290 (4)(B)(i) which was mailed August 30, 2022. A Declaration of Mailing of this renewal postcard was admitted into the record as part of Exhibit C.
17. On January 23, 2023, staff emailed the Denial of Permit Renewal citing no renewal application was submitted, no proof of sign was submitted, and no signed copy of the permit was returned.
18. On January 27, 2023, Ms. Tegan emailed staff stating the last correspondence she received was August 24, 2022 and had received no response to her communication until the denial letter.
19. On January 30, 2023, Ms. Tegan submitted an appeal request for AA 23-047. Staff communicated with Ms. Tegan they would be happy to file the appeal and outlined steps for fee payment and reiterated the reasons for denial. Ms. Tegan then requested the email with the final permit attached be resent, which staff did.

20. Community Development followed the short-term rental code (11.88.290) and decisions made 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,
  - 20.1 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.
  - 20.2 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."
  - 20.3 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."
21. Information on the Chelan County Short Term Rental web page has been and is consistent. Had Appellants gone to the Chelan County Short Term Rental web page, they would have found an abundance of information to include:
  - 21.1 The heading "Once I have my land use permit, what are the requirements to maintain it?" they would have found this:
  - 21.2 Community Development will by Sept. 1 of each year, mail a renewal reminder notice to the permitted owner or operator, sent to the postal address or the email address on file, reminding them of the renewal requirement.
  - 21.3 A permit expires annually on Dec. 31, regardless of when it was issued.
  - 21.4 Annual permitting fees are not pro-rated.
  - 21.5 Permit renewal applications for permitting year 2023 and beyond, must be received by Oct. 31 of the preceding year.
22. Inadvertently missing the renewal application deadline is not a hardship.
23. Inconvenience in timely submitting the renewal application is not a hardship.
24. Confusion with the Chelan County Code or ignorance of the provisions in the Chelan County Code is not a hardship.
25. The Hearing Examiner further finds that Chelan County Code 11.88.290 is the controlling Code regarding short term rental permits, including, but not limited to, the renewal of those permits and consequences for not renewing those permits.

26. The Appellant argues that the failure to receive the reminder postcard is a hardship. The Hearing Examiner does not accept this argument. First of all, there is an Affidavit of Mailing demonstrating proof of mailing of the reminder postcard. After mailing of this postcard to the last known address, the delivery of this notice is out of the control of the County. Also, the Appellants are given notice, not only within the Chelan County Code, but within the short term rental application that October 31st is the deadline to apply for a renewal of the short term rental permit.
27. The CCC 11.88.290(4)(B)(i) requires that the reminder be mailed to the Applicant's address on file. It does not require that the reminder notice be received by the Applicant.
28. The renewal notice was sent to the Applicant at the correct address on file with Chelan County Community Development.
29. The Hearing Examiner finds that this Appellant has not demonstrated a hardship resulting in failure to timely submit a renewal application.
30. After due legal notice, an open record public hearing was held via Zoom video conference on May 3, 2023.
31. Admitted into the record were the following:
  - 31.1 Ex. A Denial of permit application renewal extension for Short-Term Rental dated January 20, 2023.
  - 31.2 Ex. B AA 23-047 Application Materials
  - 31.3 Ex. C Email timeline.
  - 31.4 Ex. D Staff Report
  - 31.5 Ex. E Administrative Appeal Petition with Exhibits A-D
  - 31.6 Ex. F Declaration of Anne Tegan
  - 31.7 Ex. G Appellant's Supplemental Briefing
32. Appearing and testifying on behalf of the Appellant was Jonah Harrison and Anne Tegan. Mr. Harrison testified that their primary issue was notice and their inability to cure the defect in their application. He stated that they did not receive the postcard reminder for the renewal application. Ms. Tegan testified that they were not getting emails from the County and only received mail from the County.
33. Mr. Harrison had also indicated that he had never received the staff report. The Hearing Examiner left the record open until May 12, 2023 at 5:00 p.m. for the Applicant to submit whatever supplemental information they wished to submit. The Applicant did submit supplemental briefing which was admitted into the record as Exhibit G.
34. 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 either a permit application, or renewal application, with all of the required information by the deadline, the Appellant failed to demonstrate to the satisfaction of the Director that all approved criteria had been satisfied.
4. The Appellant did not submit the required proof of signage within the deadline to be eligible for renewal.
5. The Appellant did not request a hardship to explain his failure to submit a timely renewal application.
6. 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 20, 2023 is hereby **AFFIRMED** based on the fact the Applicant did not meet the renewal application criteria.

Dated this 17 day of May, 2023.

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.**