

**CHELAN COUNTY  
LAND USE HEARING EXAMINER**

<b>IN THE MATTER OF</b>	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW, AND</b>
<b>AA 24-322</b>	)	<b>DECISION AND</b>
<b>Moniz</b>	)	<b>CONDITIONS OF APPROVAL</b>

THIS MATTER having come on for hearing in front of the Chelan County Hearing Examiner on September 18, 2024, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

**I. FINDINGS OF FACT**

1. On July 23, 2024 the property owner was issued a Notice and Order to Abate Violation of Chelan County Code 11.88.030 subsections 5 & 6 as they relate to disposal/accumulation/odor of animal waste.
2. The subject property is located at 476 Cherry Lane, Wenatchee, WA 98801; parcel 222026430050.
3. On June 9, 2024 John & Pennie Ross, neighbors to the Appellant, emailed Commissioner Overbay, Deputy Anderson of Code Enforcement, and Director Deanna Walter a complaint about the Appellant moving old hay, with goat urine and fecal matter near the fence separating their properties. She mentions photographs. She also noted she was sending a video to Commissioner Overbay who could share it with Code Enforcement. The video is not in the code enforcement file (Exhibit C, Pgs. 5-8).
4. On July 18, 2024 Deputy Anderson and Deputy Wenzel made a site visit. With the permission of the Ross', the deputies measured from the Ross' house to the goat waste and it was found to be 62 feet from the Ross' residence which is 38 feet closer than allowed by the referenced code section, CCC 11.88.030 subsections 5 & 6.
5. On July 23, 2024 Deputy Anderson issued a Notice and Order to Abate Violations of Chelan County Code 11.88.030 subsections 5 & 6. The Appellant was given until August 12, 2024 to move the waste back to the allowable distance (Exhibit C, Pgs. 9-12).
6. On August 2, 2024 a meeting was scheduled for Mr. Moniz to meet with Director Walter, Jamie Strother as Senior Planner, and code enforcement. Director Walter was unable to attend. Also noted this date were errors on the issued Notice and Order that the date and file number were for the other citation issued to this property for another issue.
7. On August 12, 2024, an appeal request was submitted.
8. On August 13, 2024 Deputy Anderson re-issued the corrected Notice and Order to Abate Violation of Chelan County Code 11.88.030 subsections 5 & 6 due to errors on the original. The compliance date was extended to August 27, 2024 and noted that lack of compliance may result in civil penalties (Exhibit B). The appeal request had already been submitted based on the original Notice and Order to Abate Violations.
9. On August 16, 2024 Mr. Moniz emailed Director Walter and Deputies Anderson & Wenzel that their plans were to rototill the material into the dirt and the plan was to spread the material yearly along the fence line. He asked if rototilling the material into the dirt would be a sufficient solution (Exhibit C, Pg. 18).

10. On August 19, 2024 at 8:00 am, Mr. Moniz came into Community Development and spoke with Director Walter and Assistant Director Ryles. Mr. Moniz verbalized he wanted to move forward with his appeal on the already scheduled date and agreed that the previously filed appeal would also be considered an appeal of the updated Notice and Order to Abate Violation.
11. On August 19, 2024 Representatives from Chelan-Douglas Health Department (CDHD) made a site visit to the Moniz property. Per the email from them, they found no violation of the Chelan-Douglas Health Code but did note that was most likely due to the current dry weather conditions (Exhibit C, Pgs. 19-20).
12. The CDHD visit apparently related to nuisance order and fly complaints regarding the Moniz property that is the subject of this appeal. Mr. Biran Dickey of CDHD performed the inspection and did find that waste feed and manure pellets were placed “near property edges (fence lines)”.
13. He also indicated that at the time of the inspection he dug into areas of built up waste feed (grass hay) and sheep/goat manure pellets. He found their depth to be approximately 9 inches until you reach soil. This material was very dry with no fly larvae or strong smells or rodent activity.
14. Mr. Dickey indicated that he had found no violation of the Chelan Douglas Health Code, specifically chapter 4.28 related to “Vector Control.” He also indicated that the finding of No Violation was limited to the date of the investigation, and that the fact that there was no violation was likely due to the current weather conditions being very dry. He opined that during times of prolonged moisture, this would cause the grass and hay/manure pellets to start the decomposition process and cause smell and fly issues.
15. CDHD made the following recommendations (See Exhibit C Pgs. 19-20):
  - 15.1. Consider composting on an ongoing basis rather than stockpiling or compost the material in bins.
  - 15.2. Consider land applying or stockpiling away from the property lines and move the material where desired when it is time to disc/till it into the soil.
  - 15.3. Consider releasing fly predators into stockpiled material to control fly larvae.
  - 15.4. Disc or till the material when ground has enough moisture to help reduce fugitive dust from drifting off property.
16. The findings of the CDHD staff did not mention or reflect the zoning code violation.
17. August 27, 2024 was the final day for the Appellant to make corrective action and notify the deputy the property had been brought into compliance. That did not occur.
18. September 10, 2024 as of the finalization of this staff report, there has been no notification that the property has been brought into compliance
19. An open record public hearing was held, after legal notice, on September 18, 2024.
20. Appearing and testifying on behalf of the Appellant was Charles Moniz. Mr. Moniz indicated that he is the appellant and property owner. He states that he does not put pure animal waste on the property line, just animal bedding. He argued that there can be no violation because the County can not define or quantify the smells. He agrees that County representatives told Mr. Moniz that he can not put waste along the fence line between his property and the adjacent property owner.
21. No member of the public testified at the hearing.
22. The following exhibits were admitted into the record:
  - 22.1. Ex. A AA24-322 Appeal Request Materials

- 22.2. Ex B Updated Notice and Order to Abate Violations issued 8/13/2024
- 22.3. Ex C Code Enforcement case CE 24-0118 print out
- 22.4. Ex. D Remainder of Staff File.
23. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
24. The Hearing Examiner finds that the property owners are storing bedding material that is soiled with goat urine and waste pellets next to adjoining property.
25. The Hearing Examiner finds that this stored bedding with goat urine and fecal matter is 62 feet from the adjacent residence which is 38 feet closer than allowed by CCC 11.88.030.
26. The CDHD investigation by Mr. Dickey confirmed the storage of bedding with goat urine and fecal matter near the fence separating Appellant's property from the neighbors property. While Mr. Dickey did not note fly larvae or strong smells (not no smells) during his visit, he was certainly of the opinion that this material could produce flies and odors.
27. The Hearing Examiner finds it significant the recommendations made by Mr. Dickey in his August 20, 2024 email letter to the property owner to mitigate the adverse impact of the stored animal waste within animal bedding.
28. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

## II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted the authority to render this decision.
2. Property owners storage of animal bedding, which includes being contaminated with urine and animal feces, less than 100 feet from an adjoining property owners residence is a violation of the Chelan County Code.
3. The Appellant's storage of animal bedding material soiled with urine and animal feces has been demonstrated by Chelan County.
4. The Appellant has not satisfied Appellant's burden of proof that a violation has not occurred.
5. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

## III. DECISION

Based on the above Findings of Fact and Conclusions of Law, the Notice and Order for case AA24-322 is hereby **AFFIRMED**.

Dated this 27 day of September, 2024

CHELAN COUNTY HEARING EXAMINER

  
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Andrew L. Kottkamp

**Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Chelan County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as “(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available” or if this section does not apply, then pursuant to RCW 36.70C.040(3) (c) “...the date the decision is entered into the public record.” Anyone considering an appeal of this decision should seek legal advice.**

**Requests for Reconsideration and to Reopen the hearing must be timely filed and are governed by Chelan County Code 1.61.130 and 1.61.070 and Chelan County Hearing Examiner Rules of Procedure 1.24.**