

6.D. STR-0149
Tanya Mitchell

Before I respond to the list of complaints regarding violating ordinances listed in my short-term rental Permit, I would like to start by sharing my experiences with the neighbor who filed the 10 complaints listed in the notice as well as 41 other complaints that apparently neighborhood enforcement found to not be valid.

I purchased the home at the end of last year.

Using the guidelines given by Colorado Springs, when we first purchased the home, my family went around to the homes surrounding our Castlewood home and introduced ourselves, gave everyone our contact information and let them know that they can call us if they have any issues with guests and we would help handle the situation.

When we knocked on the door of the Englishs, Mrs. English slammed the door on us after she said, "You're are just going to ruin our neighborhood, I don't need your contact information, I will just call the police"

That was our first interaction with them.

In January, I filed my paperwork for a short term permit for Castlewood. Part of the filing is to show my listings for Castlewood on AirBnb and VRBO. My advertisements that listed the amount of guests were approved by the planning committee and by the lady that took me through the permit process. I was not told about any max occupancies for an STR. My listings also explained that this house was located in a quiet neighborhood, that they could only park two cars on the street in front of my house and that my homes were not available for parties/events as part of my ordinance requirements.

In March I had a group that had rented several vacation rentals and hotel rooms, my home was only one of their vacation rentals. I was called to the house by the guests and saw a tour bus parked in front of the house. I was shocked, I didn't want to upset the neighbors, but the bus was only there to drop off guests and they were just finishing up a dinner at the house. The bus was legally parked in a hotel parking lot at night, not in front of my house. I know that you've seen the tour bus picture, but it was only parked there for a short period and only a portion, 16 to be exact were staying there.

On July 16th, 4 months later I was contacted by Mitch Hammes, the Neighborhood Services manager through email.

Here is part of his email:

I am contacting you today to start a conversation about conditions observed at your short-term rental that are causing strife in your neighborhood. Over the last several months, we have received (and continue to receive) numerous complaints about large numbers of people who are staying at your property. On one occasion, a tour bus dropped off and picked-up a very large group of people. I have highlighted one of the Permit Standards and Review Criteria shown on the third page of your short-term rental permit application (see attached application). Your check mark indicates that you agree to remain complaint with all planning, zoning, building and other City codes.

Your property at 6040 Castlewood Lane is zoned R1-6000, which indicates it is to be used for single family residential use. I have highlighted and attached City Code Section 7.2.201 and Sections 7.3.101-105 for your review. These code sections limit the use of your property to one family, not to exceed five unrelated individuals. While we have not yet begun to make contact with your tenants to determine whether compliance is being maintained, we are asking for your assistance to limit the occupancy of your short-term rental property in order to maintain compliance with the aforementioned City Codes.

I would like to meet and talk with you more in person about the conditions that have been reported to us so that this matter can be remediated. Please call me at your earliest convenience so that we can schedule a time.

Sincerely,

Mitch Hammes

Neighborhood Services Manager

City of Colorado Springs

(719) 385-5583 office

mitchel.hammes@coloradosprings.gov

Here was my emailed response to him:

Hi Mitchell,

I am not aware of any complaints for the 6040 Castlewood home? Can you please send me, wouldn't it be required to send? Is it breaking a code to have a tour bus park in a residential neighborhood for a couple hours? Also, the home is set up for a nuclear family, which I believe is followed by 95% of my guests.

I clearly state the home is not available for events or parties. I have gone to homes in the neighborhood

And given my personal contact information so that they can contact me if there are any issues. There was one neighbor who refused my information

And said that she would just call the police, but that was before I had any guests..... I do occasionally have one neighbor text me and ask if guests can quiet down,

even though they are just in the backyard and having conversation. I message my guests and let them know, even though I know that it's not against the law to

have a small gathering in the backyard...but I do it anyway because I want to be a good neighbor.

During spring break, unknown to me, a tour bus was parked in front of the house for a couple hours so that a group could have dinner together....I am not sure this would be considered an event?

I do not ask my guests if they are all related or family...is this some new policy? If a group of women wanted to get together for a retreat, do I have to make sure that there are less than 5 non family members?

All The Best,

Tanya Mitchell

I then called him immediately and had what I thought was a good conversation. He also did not mention a max occupancy at that time. I was also not given any warning or definition of an event. I was also not given any of the complaints filed against me. I do not know of another time that Mitch or neighborhood services has reached out to me regarding complaints except for this hearing.

Then In August, my guest called me and said that she was concerned because there was a tv station parked

In front of my house. I told her that I would take care of it. She was scared and very uncomfortable.

The tv station had been told that I was violating my ordinances but after talking to me the reporter texted me this:

"Hi there. I don't know if you saw the story tonight. But I heard from you and the city, I realized the gentleman across the street is blowing things out of proportion. Hopefully you felt it was a fair story."

Later I went to the English's house and stood on the sidewalk waiting for them to come and talk to me, because I didn't want to trespass on their property. I asked them what I could do to make this work? How I could make things better. They told me that there was nothing I could do, that they were going to call the police and file a lawsuit against me for having a short-term rental and then start the process to create a retroactive HOA. I once again asked if they would like my contact information, they told me they had all my information.

A few days later they called me and my son a derogatory name. A few days after that I received numerous calls and texts from moving companies asking when I was going to move.

I have received anonymous angry texts that I believe are from them.

But not once have they called me or texted me regarding parked cars or guests.

They are not trying to make sure I follow any ordinance, their sole focus is to remove short term rentals from their neighborhood. Al even bragged about filing an average of two complaints each week.

I have read through the 103 pages of emails he has sent to the city, neighborhood code enforcement, and council members. Not one of his complaints is an actual violation of any city ordinance. You can see through his emails that he is just trying to throw different complaints out hoping that something will stick and that his sheer determination will make things happen. He is a bully and after speaking to my attorney, I believe that I could sue him for harassment and defamation, I am still shocked that I hear today to answer to any of his complaints. He has outright lied about my guest count and even sent complaints when I didn't have any guests! I know I could fight him in court, but honestly I don't want to. He is around the same age as my father, and I would never want to see him go through what he is putting me through right now.

I am sorry that he sees me and my home as such an annoyance that he has to embellish guest numbers and noise. He has even made complaints when I didn't have guests and used the same pictures of cars several times in his emails.

Questions

1. I have also requested several times which ordinances I have violated. I have never been told the definition of a large social event or gathering. I've googled "how many people would be considered an a large social event". In the Colorado Springs Special Event definition, the city defines it as 100 or more persons. So I ask you, How am I supposed to know that I am violating an ordinance when there is not a definition given other than 100 persons?
2. How many people can my guests have over for dinner?
3. How I can answer to any noise complaints without a single citation or warning?
4. In the complaint, Mitch states that he contacted me several times without a response, when did he contact me besides July 16, which responded to in less than 20 minutes?
5. According to my permit, if there is a question on violations, it says that the city will try to work with me to first before considering revoking my license. When was the process done, and why wasn't I invited?
6. Mr. English asked several times in the email how he could revoke my license, this started in March. Why wasn't I given his complaints?
7. How are you going to protect short term rental permit holders from harassing neighbors?
8. Mr. English never called me because he needed me to not respond so he could revoke my license. I was not contacted about any of the parking issues. How am I supposed to be a good neighbor when the neighbor won't contact me about any issues?

I have gone out of my way to quiet guests including adding Volume Guidelines for the backyard after 9pm.

I have lowered my guest count to 14, although I don't think that will satisfy my neighbor.

I am ready and very willing to follow city ordinances for short term rentals. I still want to be a good neighbor and not be an annoyance.

Lastly,

I have put this home up for sale, I do not have the time, energy, or mean spiritedness to fight Mr. English any longer. Since I have not violated any of the current ordinances on my short term rental, I ask that you do not revoke my license but let me know if there is a way to resolve any issues you have.

I also ask that you just let me finish my guests through December, and I will leave quietly.

Title

Request to review and revoke Short-Term Rental Permit #STR-0149 issued to Tanya Mitchell for the property located at 6040 Castlewood Lane, Colorado Springs, Colorado.

(Legislative)

Presenter:

Mitch Hammes, Neighborhood Services Manager, Planning and Community Development
Peter Wysocki, Director of Planning and Community Development

Summary:

Neighborhood Services (Code Enforcement) has received multiple complaints over the last five (5) months from a few adjacent neighbors regarding short-term rental guests at this property that are causing distress. The complainant's distress is caused by additional vehicles parked on the street in front of this residence and large numbers of people (often between 12 and 20 people) using the property for overnight stays, occasional noise disturbances, and one instance of a juvenile male using an airsoft gun in the rear yard which resulted in a report to Colorado Springs Police Department that there were shots fired at this address.

Conversations with Ms. Tanya Mitchell (the property owner and operator of the short-term rental) have stalled as she claims she has no control over how many people occupy the property and Ms. Mitchell is not responding to phone calls and does not return voice mails from Neighborhood Services.

Previous Planning Commission Action:

N/A

Background:

Please see the attached packet containing case investigation documentation, email correspondence, CSPD records, and other documentation supporting this revocation request.

Financial Implications:

Loss of future City tax revenue from this short-term rental unit.

Board/Commission Recommendation:

Permanently revoke Short-Term Rental Permit #STR-0149 issued to Ms. Tanya Mitchell for the property located at 6040 Castlewood Lane.

Alternatives:

1. Suspend Short-Term Rental Permit #STR-0149 for one year, which would prohibit the property from being used as a short-term rental during the suspension period;
2. Find that the conditions present do not warrant revocation and take no action.

Proposed Motion:

Approve revocation of Short-Term Rental Permit #STR-0149

vehicle shall be impounded by the police for the limited purpose of the expedient removal of the sound amplification system.

c. The sound amplification system shall remain impounded until ordered released, or forfeited by the court pursuant to subsection 9.1.205C of this chapter. (Ord. 96-41; Ord. 01-42; Ord. 11-19)

9.8.103: CLASSIFICATION, MEASUREMENT OF NOISE:

For purposes of determining and classifying any noise as excessive or unusually loud as declared to be unlawful and prohibited by this article, the following test measurements and requirements may be applied. A violation of sections 9.8.101 and 9.8.102 of this part may, however, occur without the following measurements being made:

A. Distance Of Measurement: Noise occurring within the jurisdiction of the City shall be measured at a distance of at least twenty five feet (25') from a noise source located within the public right of way, and if the noise source is located on private property or property other than the public right of way, at least twenty five feet (25') from the property line of the property on which the noise source is located.

B. Measurement:

1. The noise shall be measured on the A weighing scale on sound level meter of standard design and quality and having characteristics established by the American National Standards Institute.
2. For purposes of this article, measurements with sound level meters shall be made when the wind velocity at the time and place of the measurement is not more than five (5) miles per hour, or twenty five (25) miles per hour with a windscreen.
3. In all sound level measurements consideration shall be given to the effect of the ambient noise level created by the encompassing noise of the environment from all sources at the time and place of the sound level measurement. (Ord. 96-41; Ord. 01-42)

9.8.104: PERMISSIBLE NOISE LEVELS:

A noise measured or registered as provided in section 9.8.103 of this part from any source other than as provided in section 9.8.109 of this part at a level which is equal to or in excess of the db(A) established for the time period and zones listed in this section, is declared to be excessive and unusually loud and is unlawful.

<u>Zone</u>	<u>7:00 A.M. To Next 7:00 P.M.</u>	<u>7:00 P.M. To Next 7:00 A.M.</u>
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Residential	55 dB(A)	50 dB(A)
Commercial	60 dB(A)	55 dB(A)
Light industrial	70 dB(A)	65 dB(A)
Industrial	80 dB(A)	75 dB(A)

For purposes of this section only, these zones shall be defined as follows:

- A. **Residential:** An area of single or multi-family dwellings where businesses may or may not be conducted in the dwellings. The zone includes areas where multiple-unit dwellings, high rise apartment districts, and redevelopment districts are located. A residential zone may include areas containing accommodations for transients such as motels and hotels and residential areas with limited office development, but it may not include retail shopping facilities. Residential zone includes educational facilities, hospitals, nursing homes and similar institutions.

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Non-Permitted Event: The City of Colorado Springs offers 135 neighborhood parks that groups of 50 or less can use on a first-come, first-served basis. Non-permitted events do not require a fee, but do not provide exclusive access to any part of the park.

Minor Park Use Permit: The following guidelines will help you determine if your event requires a Minor Park Use permit:

- Event will be held in a Tier B park (see special event fees)
- Event attendance will not exceed 100 participants
- Tents no larger than 10x10 are used
- No admission fees are charged; nor are invitations issued to the general public
- No vending or commercial activities will occur during the event

Park Special Event Permit: The following guidelines will help you determine if your event requires a Park Special Event Permit (meeting any one of the following will require a permit):

- Event is intended for public participation
- Event participation or attendance requires an entry fee
- Event will include vending and/or commercial activities
- Event requires exclusive use of site
- Expected attendance exceeds 100 people
- Event will impact public usage of site

3.2.403: DEFINITIONS:  

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EVENT ORGANIZER: Any person identified in the special event permit application who conducts, manages, promotes, organizes, aids or solicits attendance at or for a special event.

PUBLIC SAFETY EMPLOYEE: City employees who are responsible for protecting public safety or responding to emergency calls that relate to the public health, safety or welfare. Public safety employees include, but are not limited to, firefighters, police officers and traffic engineering employees.

SPECIAL EVENT: A special event includes, but is not limited to:

A. Any organized formation, parade, procession or assembly consisting of, or reasonably expected to consist of, one hundred (100) or more persons, and which may include animals, vehicles or any combination thereof, which is to assemble or travel in unison on any public street and which does not comply with normal or usual traffic regulations or controls.

B. Any organized assemblage consisting of, or reasonably expected to consist of, one hundred (100) or more persons at any public park which is to gather for a common purpose under the direction or control of a single person or organization.

C. Any other organized activity conducted by a person or organization for a common or collective use, purpose or benefit which involves the use of, or has an impact on, other public property or facilities and the provision of public safety services to the activity.

D. Any event that requires the temporary closure of a public street, alley or right of way or the erection of barricades.

Examples of special events include, but are not limited to, concerts, parades, circuses, fairs, festivals, block parties, community events, mass participation sports (i.e., marathons, running events, bicycle races or tours, etc.), motorcycle rallies or spectator sports.

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E. Evidence: Evidence of noise heard and measured in a manner prescribed in section 9.8.103 of this part, which is less than that required for a conviction by use of test or measurement as set out in section 9.8.103 of this part may be offered to prove a violation of this section as heard without an electronic measurement device. Among the circumstances which may be considered in determining whether reasonable grounds for belief have arisen that a person has violated this section are:

1. The time of day.
2. The location of the noise.
3. Whether the noise can be heard from at least one hundred feet (100') from its source.

F. Penalties:

1. ~~Upon conviction for a first offense for violating subsection A of this section, the court shall impose a fine of not less than seventy five dollars (\$75.00), nor more than five hundred dollars (\$500.00). The minimum fine imposed by this subsection shall be mandatory and the court shall not suspend or waive any portion of the minimum fine.~~

2. Upon conviction for a second offense for violating subsection A of this section, the court shall impose a fine of not less than one hundred fifty dollars (\$150.00), nor more than five hundred dollars (\$500.00). The minimum fine imposed by this subsection shall be mandatory and the court shall not suspend or waive any portion of the minimum fine.

3. Upon conviction for a third or subsequent offense for violating subsection A of this section, the court shall impose a fine of not less than three hundred dollars (\$300.00), nor more than five hundred dollars (\$500.00). The minimum fine imposed by this subsection shall be mandatory and the court shall not suspend or waive any portion of the minimum fine. Furthermore, the sound amplification system shall be forfeited, pursuant to subsection 9.1.205C of this chapter.

a. The sound amplification system shall be confiscated by a police officer, when, on service of a citation for a violation of this section the arresting officer has knowledge or information that the person suspected of violating this section has two (2) previous convictions for violating this section.

b. Upon a determination by the arresting officer that the sound amplification system will be removed at the scene, the arresting officer's designee shall conduct the removal of the sound amplification system. If the arresting officer determines, in the officer's own discretion, that it is impractical to remove the sound amplification system at the scene of the violation, then the

https://coloradosprings.gov/sites/default/files/inline-images/2018_special_event_planning_guide.pdf