

LEGAL NOTICE  
TOWN OF MANSFIELD

Following a public hearing held on October 10, 2017, the Mansfield Town Council adopted amendments to the Zoning Violations Ordinance, Chapter 189 on October 23, 2017. The ordinance as amended shall become effective 21 days after a summary of the ordinance and a notice of adoption is published in a newspaper having circulation in the Town of Mansfield.

The amendments to the Zoning Violations Ordinance, Chapter 189 allow the automatic daily accrual of fines upon issuance of citations for Zoning Violations.

This document is prepared for the benefit of the public for purposes of information, summarization and explanation only. This document does not represent the intent of the legislative body of Mansfield for any purpose. Copies of the ordinance will be mailed to any persons requesting one at no charge to such person. Ordinances may also be downloaded from [www.mansfieldct.gov](http://www.mansfieldct.gov).

Dated at Mansfield, Connecticut this 2nd day of November 2017.

Sara-Ann Chaine  
Town Clerk



**Town of Mansfield  
Agenda Item Summary**

**To:** Town Council  
**From:** Maria E. Capriola, Interim Town Manager *Maria E. Capriola*  
**CC:** Linda Painter, Director of Planning and Development; Janell Mullen, Assistant Planner/Zoning Agent  
**Date:** October 23, 2017  
**Re:** Proposed Amendments to Zoning Violations Ordinance

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**Subject Matter/Background**

On October 10<sup>th</sup> the Town Council conducted a public hearing regarding the proposed amendments to the Zoning Violations Ordinance, Chapter 189. No comments were received during the public hearing. The Council may take action on the amendments this evening if you are prepared to do so.

Chapter 189 of the Mansfield Code of Ordinances provides a process for issuing citations and fines for Zoning Violations. However, while Connecticut General Statutes authorize municipalities to fine violators up to \$150 per day, the way in which the Ordinance is drafted does not provide for automatic accruals of these fines. As a result, staff has no choice but to repeatedly send out citations via certified mail for violations that are not corrected. Each separately issued citation is considered to be a separate violation, with an appeal process available for each separately issued citation. Since it is impractical to issue citations on a daily basis, the fines do not always serve as a deterrent or incentive to bring the property into compliance.

To address this deficiency, the Planning and Zoning Commission voted on July 17, 2017 to request that the Town Council consider revising the Ordinance to authorize the automatic daily accrual of fines upon issuance of a citation. A copy of the proposed changes is attached to the transmittal memo from the PZC Chair.

**Financial Impact**

If approved, the proposed revision could result in additional revenue if violations are not quickly abated. Based on historical trends, it is estimated that this ordinance would apply to approximately 12 violations per year. Since we have never had such an accrual system in place for zoning violations, it is difficult to estimate the revenue that would be generated. By implementing a daily accrual system, the fines could serve as a deterrent and encourage property owners to bring their property into compliance more quickly.

**Legal Review**

The Town Attorney has conducted a review of the attached proposed ordinance revisions.

**Recommendation**

If Council supports the proposed amendments to the Zoning Violations Ordinance, the following motion is in order:

*Move, to approve the proposed amendments to the Zoning Violations Ordinance, Chapter 189, which amendments shall be effective 21 days after publication in a newspaper having circulation within the Town of Mansfield.*

**Attachments**

- 1) July 17, 2017 Memo from JoAnn Goodwin, PZC Chair
- 2) Proposed Amendments to Chapter 189, Zoning Violations Ordinance, dated September 11, 2017



# TOWN OF MANSFIELD

PLANNING AND ZONING COMMISSION

Date: July 17, 2017  
To: Mansfield Town Council  
From: JoAnn Goodwin, Chair  
Subject: Zoning Violations Ordinance

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On Monday, July 17, 2017, the Planning and Zoning Commission approved a motion to request that the Town Council revise Chapter 189 of the Mansfield Code of Ordinances, entitled, "Zoning Violations" to authorize automatic, daily accrual of a fine commencing from the issuance of a citation until the zoning violation has been abated.

Chapter 189 of the Mansfield Code of Ordinances (attached) provides a process for issuing citations and fines for Zoning Violations. However, while state statute authorizes municipalities to fine violators up to \$150 per day, the current town ordinance provides only for accrual once per citation. As a result, staff must repeatedly send out citations via certified mail for violations that are not immediately corrected. It is impractical to do this on a daily basis and as a consequence, the fines often do not serve as a deterrent or incentive to bring the property into compliance.

To address this deficiency, the Commission requests that the Town Council revise the ordinance to authorize the automatic accrual of daily fines upon issuance of a citation. A draft of the proposed revisions is attached for your consideration.

# PROPOSED REVISIONS TO ZONING VIOLATIONS ORDINANCE, SEPTEMBER 11, 2017

*The following revisions are proposed to the Zoning Violations Ordinance to allow for the automatic daily accrual of fines upon issuance of a Zoning Citation. Such fines would accrue until the violation was abated. The following language has not been reviewed by the Town Attorney; it is anticipated that he will suggest changes to improve wording. The Town Attorney may also suggest other changes as needed to update and clarify the ordinance as part of his review.*

Additions: **Bold Underlined Text**

Deletions: ~~Red Strike Through Text~~

## CHAPTER 189. ZONING VIOLATIONS

*[HISTORY: Adopted by the Town Council 5-10-1999, effective 6-3-1999. Amendments noted where applicable.]*

### GENERAL REFERENCES

Planning and Zoning Commission — See Ch. 67.

Zoning Board of Appeals — See Ch. 94.

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#### § 189-1. TITLE.

This chapter shall be known and may be cited as the "Town of Mansfield Zoning Citations Ordinance."

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#### § 189-2. NOTIFICATION; ISSUANCE OF CITATION.

The Zoning Agent is authorized to issue citations for each violation of the Zoning Regulations of the Town of Mansfield as follows:

##### A. Notification.

- (1) Upon determination of a violation, the Zoning Agent shall notify, by certified mail, return receipt requested, the person(s) in control of the subject property upon which the violation exists or, in the case of a business use, the owner/operator/manager of said business. Such violation notice shall state the violation and the date by which said violation shall be remedied. Upon the failure to remedy the violation within the stated time, the Zoning Agent may issue a citation as provided for in Subsection **B** below. If the person(s) in control of the subject property is not the owner of record of said property, the Zoning Agent may notify such owner in the same manner.

(2) This subsection shall not apply to those uses which have received a violation notice or citation within the previous twelve-month period for the same violation. Said repeat offenders shall be issued a citation without first receiving a violation notice. [Amended 1-27-2003, effective 2-25-2003]

B. In the event that such violation persists notwithstanding such notice, the Zoning Agent may thereupon issue a citation. Such citation shall be served by certified mail, return receipt requested, upon the person named therein and shall cite this chapter, specify the violation(s) and the fine(s) therefor and require payment of such fine(s) within 30 days of the date of the citation. Such citation shall be in effect until the violation is corrected to the satisfaction of the Zoning Agent or is otherwise disposed of in accordance with procedure. The Zoning Agent shall retain a copy of each such citation, certified to be a true copy of the original thereof by the Mansfield Town Clerk.

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§ 189-3. PENALTIES FOR OFFENSES.

The fine for each such citation shall be Fines shall accrue at a rate of \$150 per day for each day the violation continues until the violation is corrected to the satisfaction of the Zoning Agent. Same fines are payable to the Mansfield Tax Collector.

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§ 189-4. UNCONTESTED PAYMENT; TIME PERIOD.

Any person(s) receiving such a citation shall be allowed a period of 30 days from the receipt of the citation to make an uncontested payment of the fine specified in the citation to the Tax Collector. Prior to making such payment, the recipient shall verify the balance due with the Zoning Agent based on the accrual rate specified in §189-3. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person(s) or other person making the payment.

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§ 189-5. FAILURE TO RESPOND; JUDGMENT.

If a person(s) who has been issued a citation does not make uncontested payment of the fine(s) specified in the citation to the Tax Collector within 30 days, the Zoning Agent shall at any time within 12 months from the expiration of the final period for the uncontested payment of the fine(s), send a notice to the person(s) cited, informing such person(s):

- A. Of the allegations against him or her and the amount of the fines;
- B. That the person(s) cited may contest liability before a Hearing Officer appointed by the Town Manager, as provided in § 189-6A, by delivering to the Zoning Agent, in person(s) or by mail, within 10 days of the date of the notice, a written demand for a hearing;
- C. That if the person(s) cited does not demand such a hearing, an assessment and judgment shall be entered against him or her; and
- D. That such a judgment may issue without further notice.

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§ 189-6. HEARING PROCEDURE FOR CITATIONS.

- A. The Town Manager shall appoint one or more Citation Hearing Officers to conduct hearings and enter orders authorized by this chapter. A Hearing Officer shall not be the Zoning Agent or be employed by the town.
- B. Any person(s) who does not deliver or mail written demand for a hearing within 10 days of the date of the notice provided for in § 189-5 shall be deemed to have admitted liability, and the Zoning Agent shall certify to the Hearing Officer such person's failure to respond. The Hearing Officer shall thereupon enter and assess the fine and shall follow the procedures set forth in Subsection D of this section.
- C. Any person(s) who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than 15 days nor more than 30 days from the date of the mailing of notice, provided that the Hearing Officer shall grant upon good cause shown any reasonable request by any interested party for postponement or continuance. An original or certified copy of the citation issued by the Zoning Agent pursuant to § 189-2B shall be filed and maintained by the Town and shall be deemed to be a business record within the scope of Section 52-180 of the Connecticut General Statutes and evidence of the facts contained therein. The Zoning Agent or the Zoning Agent's designee shall appear and present evidence on behalf of the municipality. Any person(s) wishing to contest his or her liability shall appear at the hearing and may present evidence on his or her behalf. If such person(s) fails to appear, the Hearing Officer may enter an assessment by default against that person(s) upon a finding of proper notice and liability under the applicable zoning regulations. The Hearing Officer may accept from such person(s) copies of police reports, investigatory and citation reports and other official documents by mail and may determine thereby that the appearance of such person(s) is unnecessary. The Hearing Officer shall conduct the hearing in the order and form and with such methods of proof as deemed fair and appropriate by the Hearing Officer. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The Hearing Officer shall announce a decision at the end of the hearing. If the Hearing Officer determines that the alleged violator is not liable, the matter shall be dismissed and the Hearing Officer's determination shall be entered in writing accordingly. If the Hearing Officer determines that the alleged violator is liable for the violation, a fine against the person(s) shall be entered and assessed as proved by this chapter.
- D. If such assessment is not paid on the date of entry, the Hearing Officer shall send, by first class mail, a notice of the assessment to the person(s) found liable and shall file, not less than 30 days nor more than 12 months after such mailing, a certified copy of the notice of assessment with the Clerk of the Superior Court for GA-19 together with an entry fee of \$8. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessments against the same person(s) may be accrued and filed as one record of assessment. The Clerk shall enter judgment, in the amount of such record of assessment and court costs of \$8, against such person(s) in favor of the municipality. Notwithstanding any other provision of the General Statutes, the Hearing Officer's

assessment, when so entered as a judgment, shall have the effect of a civil money judgment, and a levy of execution on such judgment may issue without further notice to such person(s).

- E. A person(s) against whom an assessment has been entered pursuant to this section is entitled to judicial review by way of appeal. An appeal shall be instituted within 30 days of the mailing of notice of such assessment by filing a petition to reopen assessment, together with an entry fee in the amount equal to the entry fee for a small claims case pursuant to Section 52-259 C.G.S. in the Superior Court for GA-19, which shall entitle such person(s) to a hearing in accordance the rules of the Judges of the Superior Court.

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§ 189-7. OTHER REMEDIES.

No action taken pursuant to this chapter shall preclude the Town from pursuing other enforcement remedies, either in addition to those specified within this chapter or separately, in order to achieve lawful compliance with the Mansfield Zoning Regulations.