

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 213
SENATE BILL 1113

AN ACT

AMENDING SECTIONS 11-445 AND 11-815, ARIZONA REVISED STATUTES; RELATING TO
COUNTY ZONING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-445, Arizona Revised Statutes, is amended to
3 read:

4 11-445. Fees chargeable in civil actions by sheriffs and
5 constables; constables' standardized daily activity
6 logs

7 A. The sheriff shall receive the following fees in civil actions:

8 1. For serving each true copy of the original summons in a civil
9 suit, sixteen dollars, except that the sheriff shall not charge a fee for
10 service of any document pursuant to section 13-3602 or any injunction
11 against harassment pursuant to section 12-1809 if the court indicates the
12 injunction arises out of a dating relationship.

13 2. For summoning each witness, sixteen dollars.

14 3. For levying and returning each writ of attachment or claim and
15 delivery, forty-eight dollars.

16 4. For taking and approving each bond and returning it to the
17 proper court when necessary, twelve dollars.

18 5. For endorsing the forfeiture of any bond required to be endorsed
19 by the sheriff, twelve dollars.

20 6. For levying each execution, twenty-four dollars.

21 7. For returning each execution, sixteen dollars.

22 8. For executing and returning each writ of possession or
23 restitution, forty-eight dollars plus a rate of forty dollars per hour per
24 deputy or constable for the actual time spent in excess of three hours.

25 9. For posting the advertisement for sale under execution, or any
26 order of sale, twelve dollars.

27 10. For posting or serving any notice, process, writ, order,
28 pleading or paper required or permitted by law, not otherwise provided
29 for, sixteen dollars except that posting for a writ of restitution shall
30 not exceed ten dollars.

31 11. For executing a deed to each purchaser of real property under
32 execution or order of sale, twenty-four dollars.

33 12. For executing a bill of sale to each purchaser of real and
34 personal property under an execution or order of sale, when demanded by
35 the purchaser, sixteen dollars.

36 13. For services in designating a homestead or other exempt
37 property, twelve dollars.

38 14. For receiving and paying money on redemption and issuing a
39 certificate of redemption, twenty-four dollars.

40 15. For serving and returning each writ of garnishment and related
41 papers, forty dollars.

42 16. For the preparation, including notarization, of each affidavit
43 of service or other document pertaining to service, eight dollars.

44 17. For every writ ~~served~~ ISSUED on behalf of a justice of the
45 peace, a fee established by the board of supervisors not to exceed five

1 dollars per writ. Monies collected from the writ fees shall be deposited
2 in the constable ethics standards and training fund established by section
3 22-138.

4 B. The sheriff shall also collect the appropriate recording fees if
5 applicable and other appropriate disbursements.

6 C. The sheriff may charge:

7 1. Fifty-six dollars plus disbursements for any skip tracing
8 services performed.

9 2. A reasonable fee for executing a civil arrest warrant ordered
10 pursuant to court rule by a judge or justice of the peace. The fee shall
11 only be charged to the party requesting the issuance of the civil arrest
12 warrant.

13 3. A reasonable fee for storing personal property levied on
14 pursuant to title 12, chapter 9.

15 D. For traveling to serve or on each attempt to serve civil
16 process, writs, orders, pleadings or papers, the sheriff shall receive two
17 dollars forty cents for each mile actually and necessarily traveled but
18 not to exceed two hundred miles, nor to be less than sixteen dollars.
19 Mileage shall be charged one way only. For service made or attempted at
20 the same time and place, regardless of the number of parties or the number
21 of papers so served or attempted, only one charge for travel fees shall be
22 made for such service or attempted service.

23 E. For collecting money on an execution when it is made by sale,
24 the sheriff and the constable shall receive eight dollars for each one
25 hundred dollars or major portion thereof not to exceed a total of two
26 thousand dollars, but when money is collected by the sheriff without a
27 sale, only one-half of such fee shall be allowed. When satisfaction or
28 partial satisfaction of a judgment is received by the judgment creditor
29 after the sheriff or constable has received an execution on the judgment,
30 the commission is due the sheriff or constable and is established by an
31 affidavit of the judgment creditor filed with the officer. If the
32 affidavit is not lodged with the officer within thirty days of the
33 request, the commission shall be based on the total amount of judgment due
34 as billed by the officer and may be collected as any other debt by that
35 officer.

36 F. The sheriff shall be allowed for all process issued from the
37 supreme court and served by the sheriff the same fees as are allowed the
38 sheriff for similar services on process issued from the superior court.

39 G. The constable shall receive the same fees as the sheriff for
40 performing the same services in civil actions, except that mileage shall
41 be computed from the office of the justice of the peace originating the
42 civil action to the place of service.

43 H. Notwithstanding subsection G of this section, in a county with a
44 population of more than three million persons, if an office of a justice
45 of the peace is located outside of the precinct boundaries, the mileage

1 for a constable shall be calculated pursuant to subsection D of this
2 section, except that the distance between the precinct boundaries and the
3 office of the justice of the peace, as determined by the county and
4 certified by the board of supervisors of that county, shall be subtracted
5 from the mileage calculation. This certified mileage calculation shall be
6 transmitted to the justice courts and the clerks of those courts shall
7 calculate the mileage between the office of the justice of the peace and
8 the location where the civil process, writ, order, pleading or paper was
9 served and reduce the mileage used to calculate the mileage fee according
10 to the certified mileage calculation for that respective jurisdiction.

11 I. Constables shall maintain a standardized daily activity log of
12 work related activities, including a listing of all processes served and
13 the number of processes attempted to be served by case number, the names
14 of the plaintiffs and defendants, the names and addresses of the persons
15 to be served except as otherwise precluded by law, the date of process and
16 the daily mileage.

17 J. The standardized daily activity log maintained in subsection I
18 of this section is a public record and shall be made available by the
19 constable at the constable's office during regular office hours. The
20 standardized daily **ACTIVITY** log shall be filed monthly by the tenth day of
21 the following month with the clerk of the board of supervisors. The board
22 of supervisors shall determine the method for filing the standardized
23 daily **ACTIVITY** log.

24 Sec. 2. Section 11-815, Arizona Revised Statutes, is amended to
25 read:

26 **11-815. Enforcement; county zoning inspector; deputies;**
27 **building permits; violations; classification; civil**
28 **penalties; hearing officers and procedures**

29 A. The county zoning ordinance shall provide for its enforcement
30 within a zoned territory by means of withholding building permits, and for
31 ~~such~~ **THOSE** purposes may establish the position of county zoning
32 inspector, ~~and~~ **such** deputy inspectors as may be required, who shall be
33 appointed by the board.

34 B. After the establishment and filling of the position, it is
35 unlawful to erect, construct, reconstruct, alter or use any building or
36 other structure within a zoning district covered by the ordinance without
37 first obtaining a building permit from the inspector and for that purpose
38 the applicant shall provide the zoning inspector with a sketch of the
39 proposed construction containing sufficient information for the
40 enforcement of the zoning ordinance. A permit is not required for repairs
41 or improvements of a value not exceeding five hundred dollars. Reasonable
42 fees may be charged for the issuance of a permit. The inspector shall
43 recognize the limitations placed on the inspector's authority by sections
44 11-804 and 11-811, and shall issue the permit when it appears that the
45 proposed erection, construction, reconstruction, alteration or use fully

1 conforms to the zoning ordinance. In any other case the inspector shall
2 withhold the permit.

3 C. It is unlawful to erect, construct, reconstruct, maintain or use
4 any land in any zoning district in violation of any regulation or ~~any~~
5 ~~provision of~~ any ordinance pertaining to the land and any violation
6 constitutes a public nuisance. Any person, firm or corporation violating
7 an ordinance, or any part of an ordinance, is guilty of a class 2
8 misdemeanor. Each day during which the illegal erection, construction,
9 reconstruction, alteration, maintenance or use continues is a separate
10 offense.

11 D. A county may establish civil penalties for a violation of any
12 zoning regulation or ordinance. Civil penalties shall not exceed the
13 amount of the maximum fine for a class 2 misdemeanor. Each day of
14 continuance of the violation constitutes a separate violation. If an
15 alleged violator is served with a notice of violation pursuant to
16 subsection E of this section, the alleged violator is not subject to a
17 criminal charge arising out of the same facts.

18 E. A county that establishes a civil penalty for A violation of a
19 zoning regulation or ordinance may appoint hearing officers to hear and
20 determine zoning violations. If the zoning inspector reports a zoning
21 violation to the hearing officer, the hearing officer shall hold a hearing
22 after ~~serving~~ notice of the hearing ~~HAS BEEN SERVED~~ on the alleged
23 violator. The ~~ZONING INSPECTOR SHALL CAUSE THE~~ notice ~~shall~~ TO be
24 personally served on the alleged violator ~~by the zoning inspector~~ at least
25 five days before the hearing. ~~PERSONAL SERVICE MAY BE MADE BY A ZONING~~
26 ~~INSPECTOR OR BY ANY PERSON AUTHORIZED TO PERFORM PERSONAL SERVICE BY THE~~
27 ~~ARIZONA RULES OF CIVIL PROCEDURE.~~ If IT IS IMPRACTICABLE FOR the zoning
28 inspector ~~is unable~~ TO CAUSE THE NOTICE to BE personally ~~serve the notice~~
29 ~~SERVED~~, the notice may be served in the same manner prescribed for
30 alternative methods of service by the Arizona rules of civil procedure. A
31 notice served on the alleged violator other than by personal service shall
32 be served at least thirty days before the hearing. ~~FOR THE PURPOSES OF~~
33 ~~THIS SUBSECTION, "IMPRACTICABLE" INCLUDES SERVICE OF THE NOTICE OUTSIDE~~
34 ~~THE BOUNDARIES OF THE COUNTY OR IN SITUATIONS IN WHICH THE HEARING OFFICER~~
35 ~~REASONABLY DETERMINES THAT PERSONAL SERVICE ON THE ALLEGED VIOLATOR WOULD~~
36 ~~JEOPARDIZE THE SAFETY OF THE ZONING INSPECTOR OR OTHER PERSONS AUTHORIZED~~
37 ~~TO PERFORM PERSONAL SERVICE BY THE ARIZONA RULES OF CIVIL PROCEDURE.~~

38 F. At the hearing, the zoning inspector shall present evidence
39 showing the existence of a zoning violation and the alleged violator or
40 the alleged violator's attorney or other designated representative shall
41 be given a reasonable opportunity to present evidence. The county
42 attorney may present evidence on behalf of the zoning inspector. At the
43 conclusion of the hearing, the hearing officer shall determine whether a
44 zoning violation exists and, if a violation is found to exist, may impose
45 civil penalties pursuant to subsection D of this section.

1 G. A hearing officer may be an employee of the county and shall be
2 appointed by the board of supervisors. A review of decisions of the
3 hearing officer by the board of supervisors shall be available to any
4 party to the hearing. The board of supervisors may delegate this review
5 to a county board of adjustment. If the board of supervisors elects to
6 delegate this review, the board of supervisors shall delegate all
7 requested reviews to the board of adjustment. The board of supervisors
8 shall adopt written rules of procedure for the hearing and review of
9 hearings, which shall be adopted in the same manner as zoning ordinances.
10 Judicial review of the final decisions of the board of supervisors or a
11 board of adjustment shall be pursuant to title 12, chapter 7, article 6.
12 A county that establishes civil penalties for a violation of a zoning
13 regulation or ordinance is not precluded from pursuing the remedies as
14 provided for in subsection H of this section.

15 H. If any building or structure is or is proposed to be erected,
16 constructed, reconstructed, altered, maintained or used or any land is or
17 is proposed to be used in violation of this chapter or any ordinance,
18 regulation or provision enacted or adopted by the board under the
19 authority granted by this chapter, the board, the county attorney, the
20 inspector or any adjacent or neighboring property owner who is specially
21 damaged by the violation, in addition to the other remedies provided by
22 law, may institute injunction, mandamus, abatement or any other
23 appropriate action or proceedings to prevent, ~~or~~ abate or remove the
24 unlawful erection, construction, reconstruction, alteration, maintenance
25 or use.

APPROVED BY THE GOVERNOR APRIL 12, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 13, 2018.