



Office of Arizona Attorney General Kris Mayes



Legislator Request for Attorney General Investigation of Alleged State-Law Violation by County, City, or Town

*Identify the member(s) of the Legislature
submitting this request for investigation
(attach additional sheet if necessary):

Senator Lauren Kuby

*Provide a contact person for communications from the Attorney General's Office regarding this request (may be a Legislator listed above or an employee of the Legislature).

*Name:

Elizabeth Higgins

*Email address:

ehiggins@azleg.gov

*Phone number:

480 390 9521

*Mailing address:

1700 W. Washington

Phoenix AZ 85004

*The specific question for the
Attorney General to investigate is:

Did Chino Valley violate ARS 9-463.06 when it passed a

land use moratorium to prohibit all utility-scale renewable energy projects?

*The name of the county, city, or town
that is the subject of this request:

Chino Valley

*The specific ordinance, regulation, order, or
other official action adopted or taken by the
governing body of the county, city, or town
and the date thereof:

Ordinance No. Q025-956

*The specific Arizona statute(s) and/or constitutional provision(s) with which the action conflicts:

ARS 9-463.06

ARS 9-463.06

*required field

Rev. 07/23

*All relevant facts of which you are aware (attach separate sheet if necessary):

see attached letter

*All relevant legal authority, including federal and state case law, of which you are aware (attach separate sheet if necessary):

see attached letter

* Any litigation involving this issue of which you are aware (include case name, number, and court where filed) : NA

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Check this box if you are attaching supporting documentation.

NOTE: This form and other information submitted to the Attorney General's Office is subject to the public records law, A.R.S. § 39-121 et seq.

I, a current member of the Legislature, verify that I and the other Legislators listed on the previous page (if any) are submitting this request for investigation under A.R.S. § 41-194.01.

*First Name: Lavren *Last Name: Kuby

*Signature: Lavren Kuby *Date: 1/23/2026

Please submit the completed form to:

Arizona Attorney General's Office
Attn: Solicitor General's Office, Special Litigation Section
2005 North Central Avenue
Phoenix, AZ 85004-1592
AGOpinionRequests@azag.gov

*required field

Rev. 07/23

SENATOR LAUREN KUBY
1700 WEST WASHINGTON, ROOM 311
PHOENIX, ARIZONA 85007-2844
CAPITOL PHONE: 602-790-2156
lkuby@azleg.gov

COMMITTEES:
GOVERNMENT *RANKING MEMBER*
JUDICIARY & ELECTIONS
APPROPRIATIONS



January 23, 2026

Sent via Email

The Honorable Kris Mayes
Attorney General
Arizona Attorney General's Office
Attn: Solicitor General's Office, Special Litigation Section
2005 North Central Avenue
Phoenix, AZ 85004-1592

Re: Request for investigation into Chino Valley's recent decision to ban utility-scale wind and solar projects

Dear Attorney General Mayes:

I am writing to request that your office investigate whether a zoning ordinance ([Ordinance No. 2025-956](#)) recently passed by the Town of Chino Valley to prohibit all utility-scale renewable energy projects is a violation state law, specifically [A.R.S. § 9-463.06](#). As a former city councilmember, I do not make this allegation casually or carelessly. Local control is a long-treasured value but, in this case, Chino Valley's decision to amend its zoning code will negatively impact not only its own residents, but property owners and Arizonans across the state, which seemingly crosses the line set forth in state statute.

This issue truly matters to families around the kitchen table trying to figure out how to survive under President Trump's economy. Families are currently experiencing a 13% increase in utility bills due in part to the passage of the "Big Beautiful Bill," which cancelled or delayed clean energy projects across the nation. Because renewable energy is cheaper and cleaner than the fossil-fuel alternatives, these cancelled and delayed projects would have advanced the clean-energy transition. In fact, these projects were expected to produce nearly 25,000 megawatts of energy generation and power more than 13 million homes before they were unceremoniously revoked.¹ As energy prices are expected to increase even further, Arizona and our cities and towns need to remain open to lowering utility bills by allowing for utility-scale renewable energy projects when appropriate. [A.R.S. § 9-463.06](#) requires cities, towns, and counties to consider these types of land-use development decisions seriously and to only allow for a moratorium under the most serious of situations and only in compliance with the criteria set forth in statute.

House Bill 2557:

In 1996, the Arizona Legislature passed House Bill 2557, which declared that moratoriums on construction and land development by cities, towns and counties are a matter of statewide concern. According to the bill's legislative findings, this was necessary due a moratorium's "negative effect

both on the property rights and property owners and on the housing and economic development policies and goals of other local governments in this state."ⁱⁱ The second half of the legislation details how a city, town, or county can, under limited circumstances, declare a moratorium on land development in conformance with the statute. See [A.R.S. § 9-463.06](#). Unfortunately, when Chino Valley amended its zoning and development code to prohibit large-scale renewable energy facilities, it violated the standards set forth for enacting moratoriums.

While the state has largely delegated zoning decisions to cities, towns, and counties, there are certain instances when statewide uniformity is needed to address the larger good. For instance, while a city may zone certain areas as appropriate for a certain use, that same city cannot blanketly refuse to allow those certain uses entirely. A city or town would be in clear violation of [A.R.S. § 9-463.06](#) if it had enacted an outright prohibition on industrial uses or multifamily housing within its borders. And a city or town would be in violation of law if, as Chino Valley did, it enacted an outright banning of utility-scale solar and wind projects without demonstrating a shortage of essential public facilities or a compelling need.

Chino Valley Ordinance and the Issue:

On September 23, 2025, Chino Valley Town Council passed an [ordinance](#) to "prohibit any additional utility-scale renewable energy facilities in Chino Valley."ⁱⁱⁱ The Council deleted a previously permitted "solar facility use permit" and defined entirely new utility-scale renewable resource terms. It then amended Section 4.2, Permitted Uses, in the [Unified Development Ordinance](#) (UDO) to make it clear that these types of large-scale solar and wind were prohibited. The stated need for this change according to the [Staff Report](#) was to protect "the Town from industrial-scale projects that could change Chino Valley's rural character and place new demands on infrastructure."

The Chino Valley did not issue any additional written findings justifying the need for the moratorium nor did any of the reasons discussed by the Town Council or the Planning and Zoning Commission demonstrate a need to prevent a shortage of essential public facilities or a compelling need for other public facilities, such as police and fire facilities, as required by statute. Instead, elected officials made a sweeping generalization in the ordinance's recitals that banning such utility-scale projects was "in the Town's best interests."

Conflicting State Law - A.R.S. § 9-463.06:

The statute, [A.R.S. § 9-463.06](#), provides two precise pathways for adopting a land development moratorium and, as a baseline, requires a city or town to first: 1) publish notice to the public once in a newspaper at least 30 days before a final public hearing; 2) make written findings justifying its need in a manner provided for by A.R.S. § 9-463.06(B) and (C); and 3) hold a public hearing on the adoption and findings that support the moratorium before taking any action.

The statute then details the justification needed for the two options to declare the moratorium for land categorized as urban, which is defined as all property in the incorporated area of a city or town with a population of more than 2900 persons.

Option 1: A moratorium on this urban land may be justified by demonstrating "a need to prevent a shortage of essential public facilities that would otherwise occur during the effective period of the moratorium."^{iv} There are three detailed findings that must be included in the justification. See A.R.S. § 9-463.06(B).

Option 2: The only other option to justify a moratorium is by demonstrating a "compelling need for other public facilities, including police and fire facilities."^v See A.R.S. § 9-463.06(C). Under this option, the city or town must demonstrate five findings in order to show that there is a compelling need for the moratorium.

As stated above, the Council made no findings to justify their moratorium on utility-scale solar and wind projects. In fact, the ordinance's only mention of any finding is that "the Amendment is recommended by the Planning and Zoning Commission" and that it is "appropriate and in the Town's best interest."

The statute also contemplates that a moratorium must have an end date. Therefore, the town's action, which does not contemplate an end, is even more problematic because it failed to provide findings that it enacted under either A.R.S. § 9-463.06(B) or (C), which affect how long a moratorium can remain in place. Under A.R.S. § 9-463.06(B), the contemplated end would be when the shortage of essential public facilities was addressed or as often happens over time – as the capacity expands, the area affected by the moratorium shrinks. This is because (B)(2) requires that a moratorium be "reasonably limited to those areas" where the shortage is occurring. With (C), a moratorium is limited to 120 days, at which time it can be extended if the city or town continues to demonstrate a compelling need. See A.R.S. § 9-463.06(E).

The Chino Valley ordinance does not specify findings as required by law, it does not seem to fall into either A.R.S. § 9-463.06(B) or (C) as required by law, and it contemplate an end or an end date. Therefore, it seems to have been passed in clear violation of state law.

Rejected March 2025 Ordinance:

On March 17, 2025, the Chino Valley Town Council rejected [a proposed ordinance](#) that would have established a framework for approving of utility-scale projects and requiring a payment-in-lieu-of-tax system to provide a financial benefit to the town. To receive the required use permit, that ordinance would have required any proposed solar project to execute a Development Agreement with the town.

According to the [minutes](#) from the Council Meeting, this first iteration of a utility-scale solar ordinance complied with the Town's recent voter approved [General Plan](#) because it called for the development of a solar ordinance and the establishment of a committee "to develop guidelines and regulations for solar energy facilities." In bringing the proposed ordinance forward, Town Manager Terri Denemy, stated that town staff, specifically "Ms. Lineberry and Mr. Dingee are people of the highest character and ethical standards in their work. *They had only done what they were asked to do in the General Plan by Town Council and Town Administration.*"

Chino Valley's Adopted General Plan:

The Chino Valley Town Council also passed the Ordinance No. 2025-956 without considering the direction given to the Council and Town by voters when they passed their 2040 General Plan. As background, voters adopted Chino Valley's [General Plan](#) on November 7, 2023. The General Plan's Community Services and Facilities Element contains voter-approved goals and policies that include references to community-scale solar. While I am not including this in any request for review, it is of note that the town did not seek a major amendment to the General Plan when it passed their prohibition on the very solar projects that voters had conceptually approved. Voters had approved the following goals, policies and plans:

Goal CSF-7: Enhance Town resiliency by seeking redundant sources of power to support stable regional and community-serving utility systems and minimize service disruptions

Policy CSF-7.1: Evaluate best practices for community-scale solar energy policies to determine if similar policies could benefit the Town of Chino Valley.

Policy CSF-7.2: Require any solar energy generation facilities be developed in a manner that does not impact wildlife movement.

Policy CSF-7.3: Establish a committee to develop guidelines and regulations for solar energy facilities to include performance standards, minimum distances from existing uses or other land use categories, minimum or maximum lot size, taxation, visual impact mitigation and buffering requirements, and wildlife migration.

Policy CSF-7.4: Require any new community- or regional-scale solar energy development proposal to include a reclamation plan that describes how the land will be positioned for redevelopment or restored to its original state.

Policy CSF-7.5: Evaluate microgrid solar energy generation facilities within the Ranch Agricultural (RA) land use category, as well as where allowed by the zoning of the property, that will provide community-scale power directly to properties within Chino Valley.

Policy CSF-7.6: Review utility tax, fees, licenses, or other revenue mechanisms that maybe applicable to solar and other power generation facilities.

Community-scale solar is also part of the General Plan's Implementation Plan.

CSF.8: Create a committee to establish design standards and explore financial opportunities associated with solar and other power generation facilities.

CSF9: Explore community-scale solar and microgrids to reduce power disruptions due to natural and man-made events.

Thus, Chino Valley residents had approved a General Plan that contemplated and even planned for community-scale solar. The Plan embraced the proposition of solar, even touting that a partnership with Arizona Public Service (APS) could create community-scale, solar generating facilities and batteries that could "fully power the community during regional power disruptions." Instead of listening to the voters who passed the General Plan and following A.R.S. 9-463.06, the Chino Valley Council rushed in the opposite direction, likely due to the pressure placed on it and staff by a minority of residents who unfortunately, relied misinformation about the safety and impact of community solar.^{vi} It's these types of statements that made the statute prohibiting land use moratoriums necessary – that's because unfortunately, there is an understanding that community pressure does not always bring about the best outcome for the state. This explains why the ordinance that passed was such a sudden reversal of policy that did not contemplate an amendment to the General Plan approved by voters as required by [A.R.S. § 9-461.06](#).

Sincerely,



Lauren Kuby
State Senator
District 8

ⁱ <https://abcnews.go.com/US/energy-bills-us-increased-13-trump-office-new/story?id=128346091>

ⁱⁱ Sec. 1 of HB2557 provided the Legislature's finding and purpose for enacting the legislation. It is as follows: Section 1. Legislative findings; purpose.

"The legislature finds and declares that: 1. The declaration of moratoriums on construction and land development by cities, towns and counties may have a negative effect both on the property rights and property owners and on the housing and economic development policies and goals of other local governments in this state and, therefore, is a matter of statewide concern. 2. Such moratoriums, particularly if limited in duration and scope, and adopted pursuant to growth management systems that further the statewide planning goals and local comprehensive plans, may be both necessary and desirable. 3. Clear state standards should be established to ensure that:

- (a) The need for moratoriums is considered and documented.
- (b) The impact on property rights, housing and economic development is minimized.
- (c) Necessary and properly enacted moratoriums are not subjected to undue litigation."

ⁱⁱⁱ [See 9/23/25 Town Council Agenda Item Staff Report on Ordinance No. 2025-956](#).

^{iv} "Essential public facilities" means water, sewer and street improvements to the extent that these improvements and water resources are provided by the city, town or private utility. A.R.S. 9-463.06(I)(2).

^v "Compelling need" means a clear and imminent danger to the health and safety of the public. A.R.S. 9-463.06(I)(1).

^{vi} See the minutes from the following meetings:

<https://chinovalleyaz.portal.civicclerk.com/event/6489/files/agenda/14775>;

<https://chinovalleyaz.portal.civicclerk.com/event/6520/files/agenda/14938>

file:///C:/Users/ehiggins/Downloads/2025_06_03_PZC_RG_MN.pdf