

# Letter to the Arizona Attorney General

by [Supporters of Mayor Ed Foster of Quartzsite Arizona](#) on Tuesday, August 23, 2011 at 12:23pm

Dear Attorney General Horne,

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In my elected capacity as Mayor of the Town of Quartzsite Arizona, I am writing to you so as to immediately inform and create a line of communication with you by virtue of your unique office as a state official. I am contacting you regarding Quartzsite Ordinance 11-10 just enacted by the Common Council of Quartzsite on August 23, 2011.

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I believe a commonly recognized, overarching principle which governs any statutorily incorporated town in Arizona, like Quartzsite, fundamentally lies at the core of representative government and respect for such, and therefore I wish to bring this matter to your immediate attention.

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Local legislative bodies such as Town Councils and Mayors are unquestionably representatives of the people under the constitution and statutes of Arizona, and are duly elected to office with specific state constitutional and statutory duties. I believe it is clear principle, therefore, that elected officials must be free of at the point of election and during their tenure in their respective public offices to perform their statutory and state constitutionally empowered duties.

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Of immediate concern for me and my constituents, is that Quartzsite Ordinance 11-10 specifically interferes with my ability to perform my statutory duties, and interferes with the statutory authority of the office of Mayor (and therefore myself as Mayor of Quartzsite) set forth by A.R.S. 26-311.

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Clearly, the purpose of A.R.S. 26-311 is to promote public safety in local jurisdictions. In the vein of protecting and promoting public safety in local jurisdictions across Arizona, the legislature has separated and clearly defined the statutory duties and powers of a local government, such as the Town of Quartzsite, during a period where a local emergency (pursuant to A.R.S. 26-311) may be declared by ordinance or resolution. In the case of Quartzsite, such an act would initially derive from the Common Council, by statutory authority and present local ordinance in effect under such statutory authority provided in A.R.S. 26-311.

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It is clear A.R.S. 26-311 was crafted and enacted into Arizona law so as to avoid conflicts of interests or confusions at the state, county, and local jurisdictional levels, regarding in whom "authority" to "govern" is vested pursuant to the aforementioned statute. It is also of vital public interest, and therefore state interest, that the general public living in or passing through a town, (such as Quartzsite) where such a local emergency may have been declared, have a clear and irrefutable understanding of why, how, and who shall govern during such a local emergency.

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Because county and local electorates do rely on state statutes to define the duties and authority of those they elect to office, it becomes a vital issue not only to a local electorate, but to the state also, when unlawful legislation at a county or local level is enacted, by ignorance or intent, squarely operating against applicable Arizona state law in a specific matter. It can lead to public confusion, which especially, neither the public nor any level of government wishes to see compounded during a time of state or local emergency.

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I believe A.R.S. 26-311 is the type of “applicable statute” referred to by the Arizona Constitution; a statute which already very clearly sets forth statewide policy regarding both the duties and authority of local elected officials (including a mayor) regarding local emergencies of the nature described in A.R.S. 26-311.

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I believe after a careful review, of the attached Quartzsite Ordinance 11-10 you will come to support my opinion that A.R.S. 26-311 preempts in large part almost all of Quartzsite Ordinance 11-10 in a number of details which I have not covered in specificity for the sake of brevity.

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In closing, I ask for your support as a state official by way of a responsive letter and any future action you deem necessary by virtue of your public office is necessary to ensure that Arizona laws are abided by in such event that the Common Council of Quartzsite (by resolution or ordinance) declares an emergency under 26-311. I further ask that you recognize and support my statutory authority and duties under 26-311 in an instance they are unlawfully usurped during a local emergency called for pursuant to A.R.S. 26-311.

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Yours,

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Mayor Ed Foster, Quartzsite, Arizona