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Community and Rural Enterprise Development Clinic

Arkansas Incorporated Towns

Their Governance Capacities and Legal Needs

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Photo Credit

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EXECUTIVE SUMMARY

Incorporated towns – Arkansas's smallest municipalities – face multiple challenges stemming from declining, aging populations, and loss of local businesses and industries. Local officials are often well aware of the issues affecting the quality of life in their towns, but face headwinds in addressing them.

This report examines why. It describes the findings of a survey conducted in June 2026, distributed to the mayors or recorder-treasurers of 156 incorporated towns in Arkansas and completed by 28 of these elected officials.

The survey respondents were most concerned about traditional municipal responsibilities: their priorities include condemning abandoned and vacant properties, abating public nuisances, and resolving animal control problems. Incorporated towns have long had the authority under state law to address these issues. Even with this formal authority, though, respondents reported lacking the financial resources, enforcement capabilities, legal advice, administrative staffing capacity, and specialized expertise needed to act effectively. Inadequate enforcement capabilities and lack of revenue, respondents reported, are complete barriers to addressing their top priority issues in 40% of cases and at least partial barriers in 93% or 94% of cases (respectively).

Respondents also reported gaps in access to legal services. While all surveyed towns received some legal help from the Arkansas Municipal League, almost 30% of respondents nonetheless rated their access to legal services and resources as "poor." Fewer than 25% of respondents reported that their towns had elected or appointed municipal attorneys, and this minority of towns did not report higher levels of satisfaction with their access to and the quality of legal services. While incorporated towns are permitted under state law to contract with law firms or individual lawyers, only one respondent reported using the services of a private lawyer regularly.

As a result of these barriers, respondents reported that many of their most urgent issues have gone unaddressed. Asked whether they had taken steps to address their three highest- priority issues, respondents reported taking action only 44% of the time. A full quarter of respondents reported taking no steps to address any of their top three issues. Further, key strategies for obtaining further resources, in particular entering into resource-sharing interlocal agreements, themselves require legal and administrative resources that are frequently beyond the reach of incorporated towns.

The report proposes several concrete actions. Given incorporated towns' limited staffing and administrative capacities, legal service providers like the Arkansas Municipal League, the Arkansas Bar Association, and state law schools should focus just as much on providing in-depth guidance on implementing as on drafting or codifying ordinances. These legal providers should reduce the barriers to municipalities sharing resources by developing transparent, equitable, and standardized interlocal agreements for towns and counties. Providers and the state legislature should also act to expand incorporated towns' access to steady, competent legal representation, including by reforming municipal attorney residency requirements and by encouraging private attorneys and law firms across the state to develop active municipal law practices.

Additionally, the report identifies several questions for future research. First, which legal problems are most likely to impede effective governance, and which most frequently fall between the cracks of existing legal services and resources? Second, many respondents reported lacking legal authority to address issues that, under state law, incorporated towns are in fact authorized to address: does this difference between self-reported and statutory legal authority demonstrate a need for further education or does it arise from real legal obstacles encountered by elected officials in practice? Additionally, future research should clarify the relationship between incorporated towns and county sheriffs and determine what assistance towns actually need from sheriffs or other law enforcement agencies.

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INTRODUCTION

The University of Arkansas's Community and Rural Enterprise Development (CRED) Clinic was established in 2024 to serve small businesses, nonprofits, cooperatives, and small municipalities in Arkansas. The Clinic started work with its first municipal client in fall 2025, when a small town in the Ozarks requested help drafting their first municipal ordinances in several years.

Working with the client, we were struck by the gap between powers granted to towns by state law and the realities of actually implementing ordinances in towns without police departments or municipal attorneys. Even relatively simple ordinances require sensitivity to state and federal laws and constitutional issues, organized checklists of procedures to follow, and interactions with a range of institutions outside the town, including circuit courts, sheriffs' offices, and county tax collectors.

It became apparent to us that laws and legal reforms mean little without the specialized knowledge, resources, and capacity to implement them. Despite energetic, thoughtful, and engaged leaders and residents, these were all scarce in our client community.

Working with this town led us to ask how we could better help other small towns in similar circumstances. In December 2025, I started making plans to conduct a legal needs assessment survey of incorporated towns. Legal needs assessments are nothing new: many legal aid organizations conduct them to understand how to best provide access to justice for underserved individuals and families. However, to my knowledge, a legal needs assessment has never been attempted for small municipalities. The possibility that political subdivisions such as small towns might have unmet legal needs, or that these needs might impact the quality of life of their residents or the effectiveness of democratic governance, seems to be unexplored by legal scholars or legal service organizations.

> *Elected officials in incorporated towns shared common goals for improving the quality of life of their residents but often lacked the institutional resources to pursue these goals.*

Thus, it turns out that I was attempting something new. In striking out on this project, the first empirical study attempted by the CRED Clinic, I was fortunate that three outstanding law students, Adam Hagler, Haley Smith, and Joshua Han, decided to spend their final semester of law school working on this first-of-its-kind study. As we researched and discussed the conditions, we decided to broaden the scope of the survey from a legal needs assessment to a more global exploratory investigation of both governance capacity and legal needs.

I was equally fortunate that John Wilkerson, the General Counsel & Legislative Director of the Arkansas Municipal League, kindly replied to a cold call request for help. John and his team agreed to work with us to distribute our survey to elected officials in incorporated towns across the state. Through AML's support, we were able to reach out to 156 elected officials. Twenty-eight graciously volunteered their time to complete an extensive set of questions about their towns.

The findings confirmed our original hypothesis: elected officials in incorporated towns shared common goals for improving the quality of life of their residents but often lacked the institutional resources to achieve them. This report describes these goals, the barriers town officials face in pursuing them, and towns' access to the legal advice and services that are often crucial for overcoming such barriers. Moreover, it places the findings of the survey in their legal and demographic context and presents an agenda for future research and recommendations for concrete actions.

Part I presents a demographic profile of incorporated towns in Arkansas. More broadly, it also discusses the challenges of small rural communities. It describes how depopulation and economic shifts have affected rural communities and highlights the lack of access to legal services that many rural communities face.

Part II describes how municipalities are incorporated and governed under Arkansas law. It explains how incorporated towns fit into municipal law and how state law mandates that they be governed. It also explains the powers that incorporated towns have to act on behalf of their residents and the limits of these powers.

Part III explains the survey methodology. It explains how the Survey Team developed the survey instrument and chose questions and describes how the team and the Arkansas Municipal League worked together to recruit respondents and distribute the survey.

Part IV presents the findings of the survey. It shows what human resources – elected officials, employees, and volunteers – respondents can draw on to conduct the town's business. It analyzes respondents' evaluations of the quality of basic infrastructure and first responder services. It discusses respondents' satisfaction with their access to legal resources and services and with the quality of the resources and services they can access. Finally, it ranks respondents' self-reported highest-priority issues and examines the barriers respondents face in addressing them. It finds that many of these barriers arise from lack of resources and administrative capacity, in many cases exacerbated by lack of access to legal advice.

> *Many of these barriers arise from lack of resources and administrative capacity, in many cases exacerbated by lack of access to legal advice.*

Part V includes both an agenda for future studies and proposals for concrete steps to build the governance capacity of incorporated towns. It calls for further investigations into the role of county sheriffs in enforcing municipal ordinances and, more generally, an examination of when law enforcement agencies are legally required or practically necessary for enforcement. Reflecting on survey results showing that respondents believed lack of legal authority prevented them from acting, even when state law included grants of legal authority, it proposes examining where elected officials encounter or believe they will encounter legal barriers to addressing key issues.

The report then proposes concrete steps to improve incorporated towns' governance capacity. It argues that major legal service providers should broaden the types of assistance they provide incorporated towns to include training in and development of administrative systems and processes. It also urges reforms for making direct legal representation, both by municipal attorneys and private practitioners, more readily accessible.

This report is intended to be an early step toward improving governance capacity in Arkansas's smallest towns and thus their ability to engage in effective democratic self-governance. It shows how even the smallest municipal governments are ready and determined to be active agents in shaping their communities' futures, if only given the resources to do so.

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PART I: THE DEMOGRAPHICS OF ARKANSAS INCORPORATED TOWNS

Arkansas today is a state defined by movement–into certain areas, out of others, and simultaneously in and out of yet others. As of July 1, 2025, Arkansas's population reached an estimated 3,114,791, representing a 3.4% increase since the 2020 Decennial Census. Yet statewide growth masks a more complicated reality. A handful of urban corridors, especially in Northwest Arkansas, have grown exceptionally fast. By contrast, the Delta region and Coastal Plains are losing population. And areas in the Ozark and Ouachita Mountains are experiencing both loss and gain: seeing young people leave the region while older out-of-state transplants and retirees settle there. Arkansas is thus characterized by a distinct demographic split between moderate- and high-growth urban hubs, agricultural communities facing systemic out-migration, and scenic rural areas whose relatively stable population numbers belie underlying changes.

Although many have lost population, rural communities remain important to the state and its identity. Approximately 45% of the state's residents continue to reside in rural areas, one of the highest rural population ratios in the United States. Further, over 70% of Arkansas's cities and towns are located in counties with fewer than 50,000 residents; almost 40% of these municipalities are in counties with fewer than 20,000. Small rural municipalities remain key institutions in the lives of many Arkansans.

In Arkansas, the very smallest rural municipalities are designated as "incorporated towns," defined under Arkansas law as those municipalities with fewer than 500 residents (larger municipalities with up to 2,500 residents are "cities of the second class" and those with 2,500 or more residents are "cities of the first class"). There are currently 173 incorporated towns in Arkansas, located throughout the state.

Changes in Population, Age, and Income of Incorporated Towns

Demographic changes in incorporated towns over time illustrate their trajectories. However, one must be cautious about this sort of longitudinal data, since a growing town may automatically "graduate" from incorporated town status and become a city. Taking the current list of incorporated towns and looking back can introduce a "survivorship bias" in favor of those communities that haven't grown.

> *Between 2000 and 2020, over 75% of these towns lost population; the average change in population was -14%.*

Even accounting for survivorship bias, comparing 2000 and 2020 Census data reveals some trends.[1] Between 2000 and 2020, over 75% of these towns lost population; the average change in population was -14%. The degree of population loss varied: at the 25th percentile, the loss was 33% and at the 75th

[1] Two relatively new towns have been incorporated since the 2000 Census. Thus, the discussion below is based on the data for the 171 incorporated towns that existed in 2000.

percentile, just over 1%. Their populations also aged: the median age of residents increased by over 5 years, from 38 years in 2000 to 43 years in 2020, a significantly greater change than in Arkansas as a whole (which increased from 36 to 38 years over the same period).[2]

Despite these trends of population decline and aging, the economic fortunes of remaining residents have remained relatively stable. Median household incomes were 82% of the Arkansas state average in 2000 and remained 82% of the state average in 2020. The poverty rate increased from 19% to 21%, rising more than in Arkansas as a whole (where it remained at 16%). Unemployment in incorporated towns remained stable at approximately 7% (compared with a drop in the statewide rate from 6% in 2000 to 5.2% in 2020).

Regional Variation

While incorporated towns across the state share many common traits and concerns, their situations can vary by region. Throughout this report, regional variations will be reported in terms of the eight planning and development districts defined by the Association of Arkansas Development Organizations (AADO). According to the AADO, these districts, each of which comprises between 6 and 12 counties, are "bound together by common economic problems and opportunities."[3]

District-Level Population and Economic Change

District level data reveals a more complex picture of population and economic change in rural Arkansas. While the average median household income of incorporated towns in every district is below the statewide median, districts vary considerably, sometimes in unexpected ways: the lowest median incomes are in the Western district ($35,050) and the highest in the neighborhood West Central district ($47,927). Similarly, the median age of incorporated towns in all districts increased more between 2000 and 2020 than the state median age, but the increase in the Northwest district was much higher (9.2 years) than in the West Central district (2.9 years). Generally, incorporated towns in the Southwest and West Central districts show surprising economic vitality, with higher median household incomes and lower poverty rates than those in the more urbanized Northwest and Central districts.

> *The magnitudes of incorporated towns' population losses are not significantly correlated with their per capita income, poverty, or unemployment rates.*

Rates of population change tell a more coherent story, though not one straightforwardly in line with economic indicators: incorporated towns in the East, Southeast, and Southwest districts experienced greater rates of population loss than other districts, consistent with the overall loss of population in the Delta and Coastal Plains regions comprising these districts. The population decline is not tied to a concurrent decline in incomes. The Southeast district recorded the highest rate of population loss between 2000 and 2020 (-26.2%), but median household income in the district grew slightly faster than in

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[2] Population and median age data is from the 2000 and 2020 Decennial U.S. Censuses. Median household income, unemployment, and poverty data are from the 2000 Decennial U.S. Census and the 2016–2020 American Community Survey 5-Year Data Profiles.

[3] https://arkansaseconomicregions.org/districts/.

the state as a whole (54.3% versus 53.7%). The Southwest and Eastern districts, ranked second and third in population loss, also recorded median household income growth rates similar to the state average. More generally, the magnitudes of incorporated towns' population losses are not significantly correlated with their median household income, poverty rate, or unemployment rate.[4]

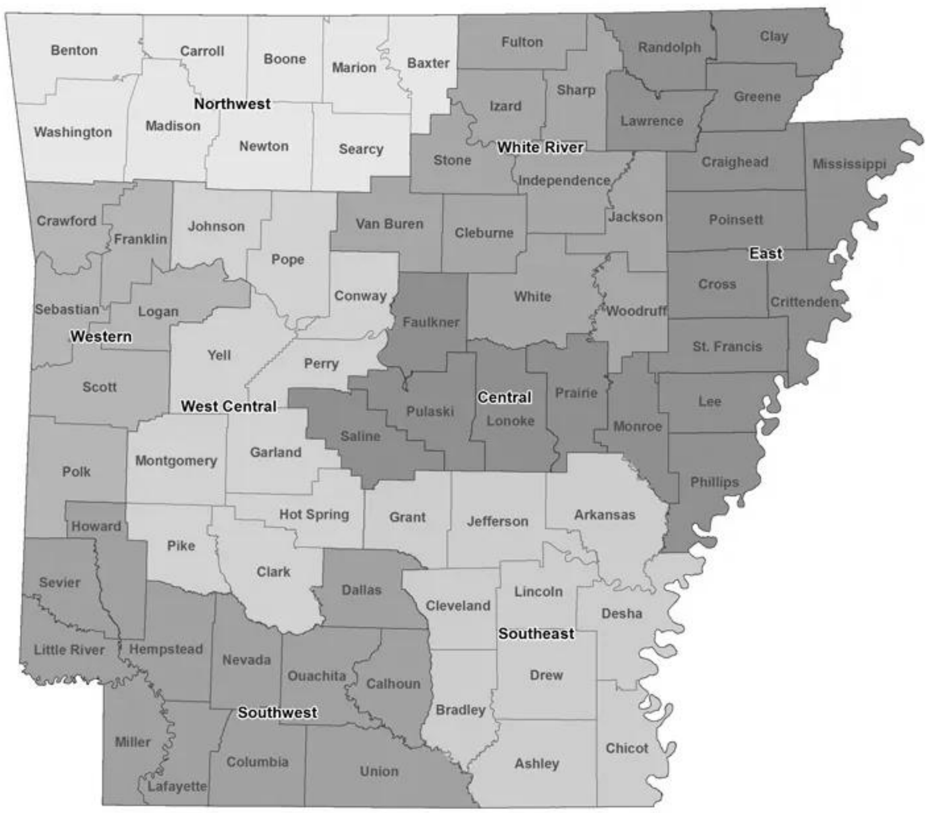

Figure 1

Racial Composition of Incorporated Towns Across Districts

The racial composition of incorporated towns in different AADO districts also reflects overall regional demographics. In 2020, the overall percentage of incorporated town residents who identified as Black was 14%, slightly more than the statewide percentage of 12.4%. However, Black residents of incorporated towns were not evenly distributed across districts: they comprised more than 25% of residents of towns in three districts (Central, Southeast, and Southwest) and less than 1% in three other districts (Northwest, Western, and White River). By contrast, a much smaller percentage of incorporated town residents identified as Hispanic (of any race) than of Arkansas residents overall (4% in incorporated towns versus 18.7% statewide), but Hispanic residents of towns were more evenly distributed across the state, from a low of 2.5% in the Southeast district to a high of 7.9% in the Western district.

[4] Pearson correlation coefficients and p values between 2000-2020 population change and (i) 2020 median household income (r = 0.16, p = 0.06), (ii) 2020 poverty rate (r = -0.08, p = 0.29), (iii) 2020 unemployment rate (r = 0.00, p = 0.98).

Overall, the racial composition of incorporated towns (like the magnitude of their population losses) did not significantly correlate with towns' median household incomes, poverty rates, or unemployment rates.[5]

The Access to Justice Gap

While no previous study has examined the prevalence of lawyers specifically in incorporated towns, researchers have examined the distribution of Arkansas lawyers in urban and rural areas of the state.[6] These studies found that Arkansas has one of the lowest lawyer-to-population ratios of any state and the lawyers who do work here overwhelmingly live and work in its largest urban areas: over half of all attorneys in private practice live in one of just three counties (Pulaski, Washington, or Benton). One survey found that only 2.7% of Arkansas lawyers live in a rural county (with fewer than 15,000 residents).

> *Only 2.7% of Arkansas lawyers live in a rural county*

In the least populous rural counties, the number of resident lawyers, county-wide, can be in single digits (one county, Cleveland, reportedly had zero lawyers in 2015, though it increased that number to three by 2025). Rural lawyers are also older: in 6 of the 10 least populous rural counties, the average lawyer passed the bar more than 30 years ago. The per capita number of lawyers in rural counties is frequently fewer than 1 per 2000 residents and those who do live in these counties are likely to reside in the county seats where circuit courts are located, suggesting that many incorporated towns (with fewer than 500 residents) are likely to have no resident lawyers.

Lack of Professional, Administrative, and Managerial Workers

Many of the administrative and governance tasks conducted by municipal governments do not necessarily require a law degree but still involve specialized and technical rules and processes that are normally the domain of public administration professionals. According to Census data, very few residents of incorporated towns work in public administration (whether for the town itself or otherwise). Over 70% of towns have fewer than 5 residents employed in public administration and over 35% have none.

Casting a wider net to include workers in finance, real estate, insurance, the professions, managerial roles, and general administration, whose occupational skills might be transferrable to public administration, as well as public administration workers themselves, the picture remains one of scarcity. Over 40% of incorporated towns have fewer than 5 residents working in these fields and 12% have none.

Even more generally, one might include all residents with post-secondary degrees, regardless of field. In addition to the general skills attained through completing a college degree, a college graduate's alumni

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[5] Pearson correlations coefficients and p values between percentage of Black population and (i) median household income (r = -0.16, n = 147, p = 0.06), (ii) poverty rate (r = -0.07, p = 0.82), (iii) unemployment rate (r = 0.04, n = 147, p = 0.14). Between Hispanic population and (i) median household income (r = 0.08, p = 0.34), (ii) poverty rate (r = 0.00, n =147, p = 0.97), (iii) unemployment rate (r = 0.02, p = 0.16). ACS income, poverty, and unemployment data was not available for all 173 towns.

[6] See Nigel Halliday, Bridging the Map: The Geography of Legal Need and Aid in Arkansas (2016); Lisa Pruitt, Bart Calhoun, and J. Cliff McKenney, Access to Justice in Rural Arkansas (March 2015); J. Clif Kinney, What a Difference a Decade Makes: Has the Rural Landscape in Arkansas Changed?, Arkansas Lawyer (Winter 2026).

network and circle of acquaintances could offer incorporated towns access to resources and advice that would not otherwise be available. Census data shows that in 2021, about 12% of incorporated town residents over age 25 held at least a bachelor's degree, less than half the 25.7% rate in Arkansas statewide (which itself is considerably lower than the 38% rate nationally). About 10% of incorporated towns have no residents over age 25 with a bachelor's degree or above.[7]

Incorporated town elected officials often serve part-time in their positions, and towns typically have very small paid staff. An evaluation of the administrative capacities of incorporated towns thus must consider the relative scarcity of formally training in and access to technical and specialized expertise.

Digital Infrastructure and the Connectivity Divide

Digital access has become a functional prerequisite for participation in the modern Arkansas legal and administrative systems, yet connectivity remains inconsistent across the state. While 86.7% of Arkansas households have a broadband internet subscription, data from the State Broadband Office indicates that 22.7% of residents lack access to high-speed broadband that meets the 100/20 Mbps benchmark. In 30 of Arkansas's 75 counties, at least 50% of residents lack reliable broadband, which complicates the judiciary's transition to systems like "Search ARCourts" and can lead to the functional exclusion of residents in underserved areas like Polk County, where 48.9% of locations remain unserved.[8]

[7] All figures in this section are from the 2021 American Community Survey, 5-Year Data Profiles.

[8] Arkansas State Broadband Office (ARConnect). (2024-2025). Broadband Performance Audits.

PART II: INCORPORATED TOWNS UNDER ARKANSAS MUNICIPAL LAW

Territory located within the State of Arkansas is divided into seventy-five different counties.[9] Within these counties, territory is divided into unincorporated areas and incorporated municipalities. All territory in Arkansas is considered unincorporated by default.[10] Cities and towns are formed when the inhabitants of an unincorporated territory elect to incorporate a municipal corporation under state law. All cities and towns are municipal corporations, and all municipal corporations are creatures of state law.[11]

Once formed, a municipal corporation is designated as belonging to one of three different classes based primarily on its population size.[12] A municipality is designated as a city of the first class if it has over 2,500 inhabitants, a city of the second class if it has between 500 to 2,500 inhabitants, or an incorporated town if it has fewer than 500 inhabitants.[13] An incorporated town with a population below 500 may elect to become a City of the Second Class by lawful ordinance.[14] The ability to elect a higher classification may be crucial in some cases, as the classification of a municipality will, to some extent, govern the specific powers, rights, duties, and obligations of the entity.[15]

Governance of Incorporated Towns

Incorporated towns in Arkansas are statutorily required to take the Mayor-Council form of government. [16] A mayor acts as both the ex officio president of the town council and the incorporated town's chief executive officer.[17] As chief executive officer, the mayor has the power to appoint and remove municipal department heads and the administrative duty to supervise the incorporated town's day-to-day activities.[18] As ex officio president of the council, the mayor has the legislative duty to facilitate council meetings and the power to veto council legislative acts and vote at meetings when necessary. [19] The town council is vested with all municipal legislative authority and tasked with enacting ordinances and bylaws that promote the health, safety, and welfare of the public.[20] Incorporated town councils are required to have

[9] The Civilpedia Handbook: *A Guide to Municipal Government in Arkansas* 8 , Arkansas Municipal League (1st ed. 2024).

[10] Id.

[11] 1 Eugene McQuillin, The Law of Municipal Corporations § 3:2 (3d ed. 2025).

[12] *See* A.C.A § 14-37-103

[13] Id.

[14] A.C.A § 14-37-112.

[15] *First State Bank v. City of Elkins*, 2018 Ark. 191 (holding §14-56-202 grants the power to regulate the building of houses exclusively to cities of the first class and denies such power to cities of the second class).

[16] *See* A.C.A § 14-45-101 *et seq*.

[17] Civilpedia Handbook, *supra* note 1 at 10,11;

[18] Id. at 11.

[19] 14-45-107(a); 14-45-105.

[20] A.C.A § 14-45-101(a).

five members.[21] Most actions taken by the town council are legislative in nature, including the passage of ordinances, motions, bylaws, and resolutions that concern municipal affairs.[22]

Municipalities with the mayor-council form of government are also required to select individuals to serve some form of recorder and treasurer positions. In municipalities with larger populations, these positions may be filled by separate individuals and must be elected by the qualified voters of the municipality. [23] Incorporated towns, on the other hand, must either elect, or appoint by ordinance, one person to fill the dual role of recorder-treasurer. [24] As the recorder of an incorporated town, a recorder-treasurer is statutorily required to act as the clerk of the town, attend all council meetings, prepare accurate records of actions taken at meetings, and, in the mayor's absence, preside at meetings.[25] As the treasurer, recorder-treasurers have a duty to submit monthly financial reports to the council and ensure the town's accounting records are in compliance with state municipal accounting law. [26] Lastly, the town council will generally prescribe additional, town-specific recorder-treasurer duties by ordinance.[27]

In addition to these required positions, state statutes also grant incorporated towns the power, but not the obligation, to have a town marshal and a municipal attorney. [28] A town marshal, once elected, acts as the "principal ministerial officer" of the town with the duties to maintain peace, pursue any person fleeing from justice, and arrest any violators of state or municipal law.[29] An incorporated town may require that the town marshal reside within the corporate limits of the town or may permit them to reside outside those limits. [30]

> *Whether elected or appointed, a municipal attorney must reside within the town's municipal boundaries and be a regularly licensed attorney of the state.*

The town may elect a municipal attorney, or the town council may provide for the appointment of such by ordinance. [31] Whether elected or appointed, a municipal attorney must reside within the town's municipal boundaries and be a regularly licensed attorney of the state.[32] Once elected or appointed, the municipal attorney is authorized by statute to file for the arrest of any person violating local or state law. [33] A municipal attorney is also statutorily required to represent the town in all criminal and civil actions, advise the town when needed, prepare any necessary legal papers or forms, and file a complete report of their work with

[21] A.C.A § 14-45-102.

[22] Civilpedia Handbook, *supra* note 1, at 12, 13.

[23] A.C.A § 14-43-316(a), (b).

[24] A.C.A § 14-45-108. Thus, the minimum total number of elected officials of an incorporated town is 7: the mayor, recorder-treasurer, and 5 council members.

[25] A.C.A § 14-45-107.

[26] A.C.A § 14-59-115.

[27] A.C.A § 14-45-107.; Civilpedia Handbook, *supra* note 1, at14.

[28] A.C.A § 14-45-109; §14-42-112(a).

[29] A.C.A § 14-45-111(c).

[30] A.C.A § 14-45-110.

[31] A.C.A § 14-42-112(a).

[32] A.C.A § 14-42-112(a)(3).

[33] A.C.A § 14-42-112(c).

the town council at the end of each year.[34] The town council may also prescribe any other duties to the municipal attorney by proper ordinance.[35]

If an incorporated town chooses not to elect or appoint an individual to fill the office of municipal attorney, the town still has other options for obtaining legal representation. The town may contract with any regularly licensed attorney in the state for legal representation.[36] Additionally, a town may join with other municipalities to contract for legal services.[37]Contracting with an attorney for specific legal representation does not mean that attorney holds the office of "municipal attorney."[38] As a result, any such attorney is not required to reside within the town's municipal boundaries, does not have authority to file information for arrests on behalf of the town, and does not owe any statutorily prescribed duties to the town.[39] Instead, such attorney will only have the authority and duties the incorporated town contracted for.[40]

Legislative Powers of Incorporated Towns

While the governance structure of an incorporated town is prescribed by statute with some degree of certainty, the precise limits of an incorporated town's legislative authority remain somewhat undefined. Since municipalities are created by act of the state government, they have no inherent legislative authority but derive all such authority from the source of their creation.[41] In other words, a municipality only has the authority granted to it in the state constitution or by state statute.[42]

> *Arkansas municipalities currently work under a "limited home rule" regime in which all municipalities are granted broad legislative authority.*

Historically, Arkansas followed the "Dillon's Rule" approach to municipal authority.[43] Under the Dillon's Rule regime, courts ordinarily look at the plain text of statutes to determine what powers the legislature had delegated to cities and towns, because a municipality was not considered to have any powers except "those expressly conferred and those fairly implied for the attainment of declared purposes. . . not simply convenient, but indispensable." [44] The authority of municipal governments is limited significantly under this regime, as municipalities may only exercise powers explicitly granted to them by the state, and any reasonable doubt as to whether a municipality had a certain power is resolved against them.[45]

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[34] A.C.A § 14-42-112(d).

[35] Id.

[36] A.C.A § 14-42-112(a)(2).

[37] A.C.A § 14-42-112(f); § 14-54-101.

[38] A.C.A § 14-42-112(a)(3)(B).

[39] A.C.A § 14-42-112.

[40] A.C.A § 14-42-112; *see generally* 10 Eugene McQuillin, The Law of Municipal Corporations § 29:16 (3d ed. 2025).

[41] *City of Hot Springs v. Gray*, 215 Ark. 243, 245 (1949); 2 Eugene McQuillin, The Law of Municipal Corporations § 4:9 (3d ed. 2025).

[42] 2 McQuillan §4:9 (3d ed. 2025)

[43] Civilpedia Handbook, *supra* note 1 at 8.

[44] City of Hot Springs v. Gray, 215 Ark. 245; Portis v. Board of Public Utilities of Lepanto, 213 Ark. 201, 205 (1948).

[45] *City of Hot Springs v. Gray*, 215 Ark. 245; Paul Diller, *Intrastate Preemption*, 1123 Boston University Law Review (2007).

In 2011, the Arkansas General Assembly passed Act 1187, which purported to replace the Dillon's Rule regime with a limited "Home Rule" regime.[46] In direct contrast to the limited authority under Dillon's Rule, true Home Rule generally broadens municipal authority to include any power not explicitly withheld by the State. [47] Arkansas municipalities currently work under a "limited home rule" regime in which all municipalities are granted broad legislative authority "to perform any function and exercise full legislative power in any and all matters ... pertaining to its *municipal affairs*." [48] In other words, the state has granted broad, home-rule authority to municipalities, but has limited this authority to "municipal affairs." Municipal affairs are broadly defined as "all matters germane to, affecting, or concerning the municipality or its government," but also limited by a long list of statutorily delineated "state affairs" over which the state has exclusive legislative authority. [49]

In addition to those matters deemed "state affairs," the statutory grant of broad authority over municipal affairs is further limited by state preemption. First, a municipality does not have the authority to enact ordinances that would be directly contrary to state law.[50] For example, if state law has explicitly declared that certain activity is legal, a municipality does not have the authority to enact an ordinance declaring that same activity illegal.[51] Additionally, even if an ordinance does not conflict directly with the state, state laws governing a particular field of legislation may be so comprehensive that it leaves no room for supplementation.[52] In other words, extensive state regulation in a certain field may imply the state's intent to be the exclusive regulator in that field.[53] Finally, by explicitly granting a certain power to one class of municipality and no others, the state may be viewed as intending to deny that power to such other classes.[54]

[46] Civilpedia Handbook, *supra* note 1, at 8.

[47] 2 McQuillan §4:11 (3d ed. 2025).

[48] A.C.A. §14-43-602.

[49] A.C.A. §14-43-601(a)(1).

[50] Diller, *Intrastate Preemption*, 1141 (2007).

[51] *City of Piggot v. Eblen*, 236 Ark. 390 (1963) (holding a municipality could not declare pinball machines an unlawful nuisance when state law explicitly declared pinball machines lawful).

[52] Diller, *Intrastate Preemption*, 1141 (2007).

[53] Id.; 2 McQuillan §4:14 (3d ed. 2025).

[54] *First State Bank v. City of Elkins*, 2018 Ark. 191 (holding §14-56-202 grants the power to regulate the building of houses exclusively to cities of the first class and denies such power to cities of the second class).

PART III: METHODOLOGY

Purpose of Survey

The survey was designed to capture both quantitative measures of municipal capacity and qualitative descriptions of legal and institutional challenges facing incorporated town governments. The primary objective was to identify systemic legal, regulatory, and administrative barriers affecting local governance and the ability of towns to address priority community issues.

Survey Instrument Design

This study employed a cross-sectional survey, meaning it measured responses at a single point in time (in this case, June-July 2026). The survey was supplemented by secondary demographic and socioeconomic data from the U.S. Census Bureau, which included longitudinal data over a 20-year period.

The survey team collected data through an online questionnaire developed for this study. Survey design was informed by the Survey Team’s research on municipal governance, legal capacity, common and statutory law, and rural administrative challenges. The team standardized question and response wording to improve consistency across respondents, and designed response scales to capture gradations in perceived barriers and adequacy.

The survey prioritizes content validity, approaching legal and institutional capacity from several perspectives rather than just access to legal counsel. It included questions about physical infrastructure, perceptions of federal and state support, and political and community barriers.

The survey primarily employed closed-ended ordinal scales (e.g., Likert-type frequency, adequacy, and severity measures), multiple-choice questions, and limited open-ended prompts to capture narrative context and examples. It also made limited use of more open-ended prompts. The closed-ended items were designed to quantify the prevalence of specific legal issues, and the open-ended ones allowed respondents to elaborate on their experiences and the barriers they face in resolving issues. Adaptive survey logic was used to repeat certain questions for respondent-identified priority issues, enabling issue-specific analysis of barriers.

Because many questions solicited respondent perceptions (such as rating certain services or infrastructure “poor”, “fair”, or “good”), findings should be interpreted as reflective of respondents’ subjective administrative experience, which may or may not correspond fully with objective municipal conditions.

The survey contained six major sections:

1. Town Government – organizational variables such as staffing levels, elected positions, and legislative activity.
2. Access to Legal Services – frequency and perceived quality of legal support, including municipal attorneys, private counsel, municipal league resources, and emerging tools such as online research and generative AI.

3. Addressing Town Issues – perceived severity of community issues and identification of current and preferred policy priorities, followed by repeated modules examining financial, legal, administrative, and political barriers associated with each selected priority issue.
4. Finance and Infrastructure Needs – adequacy of funding, challenges raising funds, quality of basic physical infrastructure, access to first-responder services
5. Interlocal Agreements – use of agreements with county or other municipal governments to provide shared services.
6. Federal and State Government Regulations and Resources – perceived burdens of regulatory compliance, access to federal and state resources, and desired legislative reforms.

Target Population

The target population consisted of elected mayors or recorder-treasurers serving the 173 incorporated towns in Arkansas. Incorporated towns and their respective elected officials were identified based on Arkansas Municipal League membership lists. The instructions to the survey requested that only one elected official per town complete the survey.

Because the goal of the study was exploratory and diagnostic, emphasis was placed on gathering perspectives from elected officials with direct decision-making experience rather than achieving a statistically representative sample of individual residents. As a result, the survey deployed a census approach of all incorporated towns for which contact information could be obtained, engaging the entire available universe of town representatives from incorporated towns throughout the state.

Data Collection Procedures

The survey was administered using an online platform (Qualtrics), a link to which was distributed over email. The Survey Team, working with Arkansas Municipal League staff, were able to obtain email addresses for 148 mayors and, in cases where email addresses were not available for mayors, 8 recorder-treasurers. The survey was thus distributed to participants representing 156 of the 173 incorporated towns.

Participants were recruited in collaboration with Arkansas Municipal League staff, who circulated an introductory email to eligible participants on June 9, 2026. The Survey Team then sent invitations to the same eligible participants on June 10, explaining the purpose of the project, confidentiality protections, and estimated completion time. Follow-up reminders were used to encourage participation and improve response rates. Additionally, AML staff circulated flyers advertising the survey to eligible participants at its annual meeting on June 17, 2026.

Data collection occurred over a defined study period (June 10, 2026 – July 3, 2026), during which respondents completed the survey asynchronously. Participation was voluntary, and respondents were informed that data would be reported in aggregate form to protect confidentiality. Responses were used exclusively for research and policy analysis purposes. No sensitive personal data were collected.

Analytical Approach

The Survey Team carried out exploratory analyses across town characteristics such as population size, staffing levels, or governance structure to explore variation in high-priority issues, governance capacity, and legal deficits. Open-ended responses helped interpret quantitative results.

When exploratory analyses of the survey responses suggest associations, the report provides summaries of relevant statistical results. In places, the report notes that such analysis did not find evidence of an association. Statistical results related to the survey responses are not given where the analysis found no evidence of an association unless the lack of an association itself is deemed to be notable. Statistical results not included in the report are on file with the principal author (Peter Norman).

Limitations

Several limitations should be acknowledged:

- Results rely on self-reported perceptions and may be influenced by respondent experience or familiarity with legal issues.
- The assistance of the Arkansas Municipal League with survey outreach may introduce response bias in favor of municipalities with strong existing relationships with AML or positive experiences using AML's legal services.
- Responses were solicited over electronic mail and the survey was conducted online, which may introduce a response bias in favor of eligible participants who have access to, regularly use, and are comfortable with email and internet services.
- Response rates may vary for other systemic reasons across municipalities, potentially introducing nonresponse bias.
- Findings reflect institutional perspectives of local officials and may not fully capture resident experiences.
- Cross-sectional data capture conditions at a single point in time and cannot establish causal relationships.

Despite these limitations, the survey provides a detailed statewide exploratory survey of perceived legal deficits and governance constraints among Arkansas incorporated towns as reported by local officials.

PART IV: FINDINGS

This section presents the survey findings. It begins by evaluating response rates and representativeness before examining governance capacity, use of other outside resources (including interlocal agreements), satisfaction with access to and quality of legal services, and top-priority local issues and barriers to addressing them. For each topic, the report identifies significant associations between responses to related questions and between responses and the geography and demographics of the respondents.

Response Rate and Representativeness

Elected officials from 28 of 173 Arkansas incorporated towns completed the survey. If the respondents constituted a simple random sample, the sampling error would be approximately ±17 percentage points at the 95% confidence level. Because participation was voluntary and open to nonresponse bias, this figure should be interpreted only as an approximate indicator of statistical precision.

To assess whether a geographic or demographic nonresponse bias affected the survey results, the Survey Team compared the population size, regional distribution, racial composition, proportion of elderly residents, and per capita income of the respondent towns with those of all 173 incorporated towns.

Incorporated towns range in population from a low of 20 to a high of 496, with an average population of 183. The average population of respondent towns was 211 residents, slightly larger than this average. The standard deviation of respondents' town populations (131) was slightly greater than that of all incorporated towns (113). Overall, respondent towns appear broadly representative of the statewide distribution of incorporated town populations, although they are, on average, slightly larger than incorporated towns as a whole.

The distribution of respondents among districts generally reflects the overall distribution of incorporated towns. At the district level, response rates ranged from 10% to 21%, but this range understates the actual consistency among district response rates. In all but three districts (the East, Southeast, and Western), the actual number of respondents yielded the closest possible response rate to the overall statewide rate of 17%, given the number of incorporated towns in the district. In each of those three districts, the actual response rate was off the optimal rate by one respondent.

Respondent towns also resembled incorporated towns overall in terms of racial composition, elderly residents, and median per capita income. An average of 79% of respondent towns' residents are white, versus an average of 77% for all incorporated towns; an average of 12% were Black, versus 14% for all incorporated towns.[55] Among both respondents and all incorporated towns, 4% identified as Hispanic (of any race). In respondent towns, an average of 24% of residents were over 61 years old; for all incorporated towns, the average was 25%. The average of the average per capita income among respondent towns is

[55] Unless otherwise noted, all demographic figures are from the 2020 U.S. Census. Averages among respondents and all incorporated towns reflect averages and medians of town-level data, so they are not weighted by the relative populations of towns.

$25,041; for all incorporated towns, it is $24,863 (in both cases, significantly lower than the Arkansas state average per capita income of $34,225).[56]

The respondents thus resemble incorporated towns overall in population size, regional distribution, racial composition, age distribution, and income. Although this does not rule out the possibility of nonresponse bias on unobserved characteristics, it provides some evidence that respondents were not systematically different from all incorporated towns on these measures.

Governance Capacity

As discussed in Part II, incorporated towns are legally required to fill at least seven elected positions, permitted to levy certain taxes, and empowered to enact ordinances to address certain town issues. Statutory powers and duties do not necessarily reflect actual capacity. The survey asked several questions designed to help illuminate the institutional capacities of these small municipalities.

Officials, Paid Staff, and Volunteers

First, the survey asked respondents to list the positions currently filled in their town. Under Arkansas law, incorporated towns are required to have a mayor, a recorder-treasurer, and five town council members. Ten out of 28 respondents reported that their town had filled all of these required positions.

Table 1

Towns have top leaders but struggled to fill all positions, especially optional ones

Position	Required (Y/N)	Filled (% of towns)
Mayor	Yes	22 (79%)
Recorder-Treasurer	Yes	20 (71%)
Town Council Members (at least 1)	Yes	14 (50%)
Town Council Members (at least 5)	Yes	10 (36%)
Fire Marshal/Fire Department Chief	No	9 (32%)
Municipal attorney	No	6 (21%)
Town Marshal/Police Department Chief	No	1 (4%)

In addition to these positions, towns rely on paid full-time and part-time employees. Respondents in 11 of 28 towns (39%) reported their town having at least one full-time employee; 20 of 28 towns (71%) had at least one part-time employee. Some towns also relied on regular volunteers: 8 of 28 (29%) reported at least one regular volunteer and 5 of 28 (18%) reported at least five regular volunteers.

[56] Per capita income figures are from the 2024 American Community Survey 5-Year Data Profile.

Unsurprisingly, towns with larger populations tended to have larger total numbers of elected officials and paid employees. The total number of volunteers regularly working for the town government, on the other hand, was not meaningfully associated with the population of the town.[57] The number of elected officials, paid municipal employees, volunteers in respondents' towns was not meaningfully associated with the per capita incomes, poverty rates, or percentage of residents over 60.[58]

Ordinances Passed

The survey also asked respondents to estimate the number of ordinances passed by their towns over the past ten years. The results are summarized in Figure 2 below:

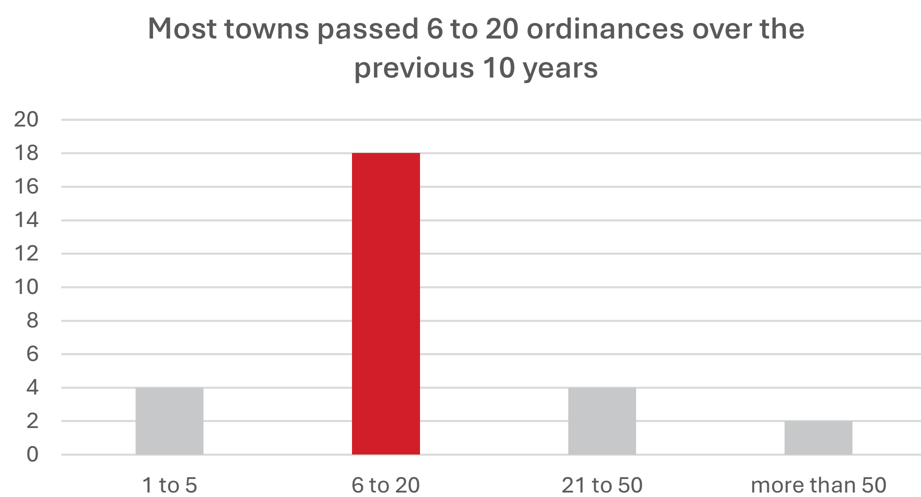

Figure 2

All towns reportedly passed at least one ordinance over the past 10 years. Most towns (18/28) passed between 6-20, averaging between one every other year to two per year. The number of ordinances passed by towns does not appear to be associated with their populations.[59]

Satisfaction with Ability to Raise Revenue

With their populations in decline and their residents' average per capita incomes significantly lower than the state average, respondents were concerned about their town's ability to raise revenue. A majority of respondents rated their town's ability to raise revenue as "poor."

[57] Pearson correlation coefficients and p values between town population and: officials ($r = 0.40$, $p = 0.04$); employees ($r = 0.50$, $p = 0.01$); volunteers ($r = 0.00$, $p = 1.00$). Town population is from the 2020 Census.

[58] Statistical results on file with author.

[59] Statistical results on file with author.

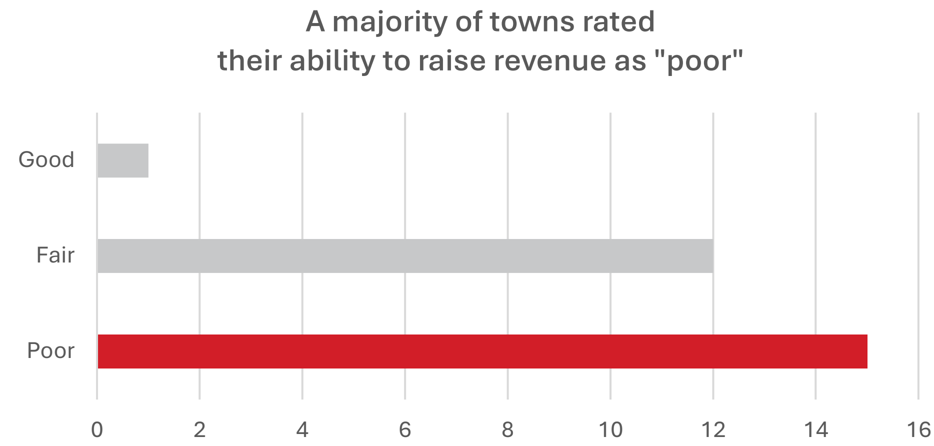

Figure 3

Satisfaction with funding, like the number of municipal officials and employees, was moderately positively correlated with the population of respondents' towns.[60] The responses did not suggest a significant association between funding and per capita incomes, poverty rates, or residents over age 60.[61]

Satisfaction with Local Infrastructure and First Responder Services

The survey asked respondents to rate the quality of local infrastructure and access to first responder services. In both cases, respondents were asked to give a rating of "poor", "fair", or "good."

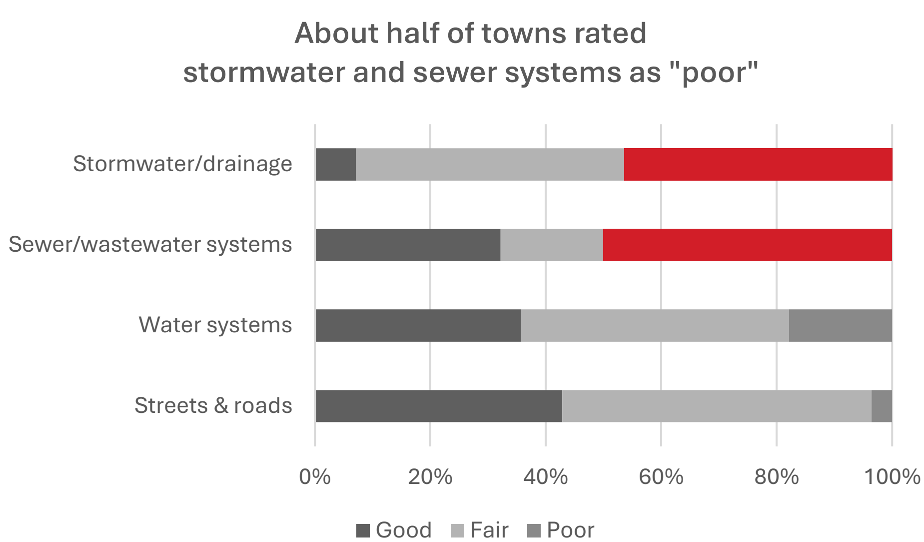

Figure 4

[60] Satisfaction rankings were ordinally encoded as "poor" = 0, "fair" = 1, and "good" = 2. Spearman rank correlation coefficient and p values between population and satisfaction: $r_s = 0.42$, $p = 0.03$.

[61] Data on file with author.

As shown above, respondents' satisfaction with local infrastructure varied significantly by the type of infrastructure. About half of respondents rated their stormwater/drainage and sewer/wastewater systems as "poor." Only two respondents, by contrast, rated their stormwater/drainage system as "good." On the other hand, respondents rated their water and streets and road systems more highly: only one respondent rated the quality of local roads as poor.

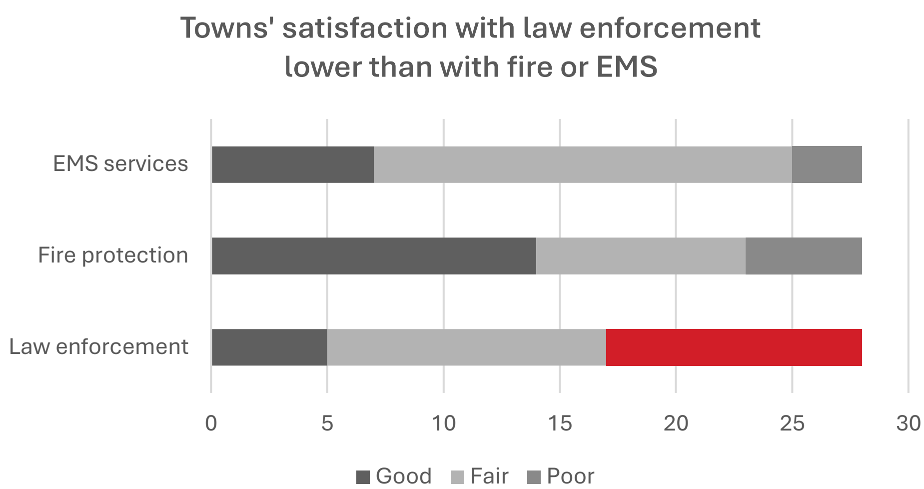

Figure 5

Satisfaction with first responder services also varied by type of service. Fire protection, the service most likely to be provided by the incorporated town itself, received the largest share of "good" ratings. EMS service was widely viewed as "fair." Law enforcement fared the worst of first responder services, receiving the most "poor" ratings and the fewest "good" ratings. In contrast to fire protection, very few respondents reported that their town had a municipal police chief or marshal – this implies that many towns rely on county sheriffs for law enforcement services and are dissatisfied with these arrangements.

The overall picture that emerges from the survey is that incorporated towns often struggle to find the manpower and resources to perform essential functions. The smallest towns struggled to fill required positions and were unsatisfied with their ability to raise funds. Nonetheless, there is some evidence that the basic functions like fire protection and water service that are performed by the incorporated town itself are the ones most likely to receive high ratings from respondents.

Interlocal Agreements

In light of their limited resources, incorporated towns could benefit from sharing resources with neighbors. One way of sharing resources is through an interlocal agreement. Such agreements allow towns to give and receive mutual aid in times of need and tap into neighbors' lower-cost services and infrastructure. The survey asked respondents about their experiences with interlocal agreements and what they saw as the most (significant barriers to entering into them.

Use of Interlocal Agreements

Fewer than 30% of survey respondents (8 of 28) indicated that they had entered into an interlocal agreement or were planning to do so in the near future. Respondents' current or planned interlocal agreements all addressed mutual aid among neighboring fire departments, agreements with county sheriffs on law enforcement, or agreements with neighbors for shared use of water or wastewater systems. Of the three respondents who mentioned existing mutual aid agreements for fire service, two rated their satisfaction fire protection services as "good" and one as "fair"; of the three who mentioned existing interlocal agreements with county sheriffs, two rated their satisfaction with law enforcement services as "poor" and one as "good."

An additional 8 of 28 respondents said they were "not sure" whether their town had entered into or had plans to enter into interlocal agreements, responses that suggested they were considering such agreements but did not yet have firm plans. The remaining 12 of 28 respondents had no agreements and no plans to enter into one.

Concerns with Interlocal Agreements

All respondents, regardless of whether or not they had or planned to enter into interlocal agreements, were asked to rate the importance of certain possible concerns about entering into interlocal agreements (as "not at all important", "moderately important", or "very important"). Their responses are summarized in Figure 6 below.

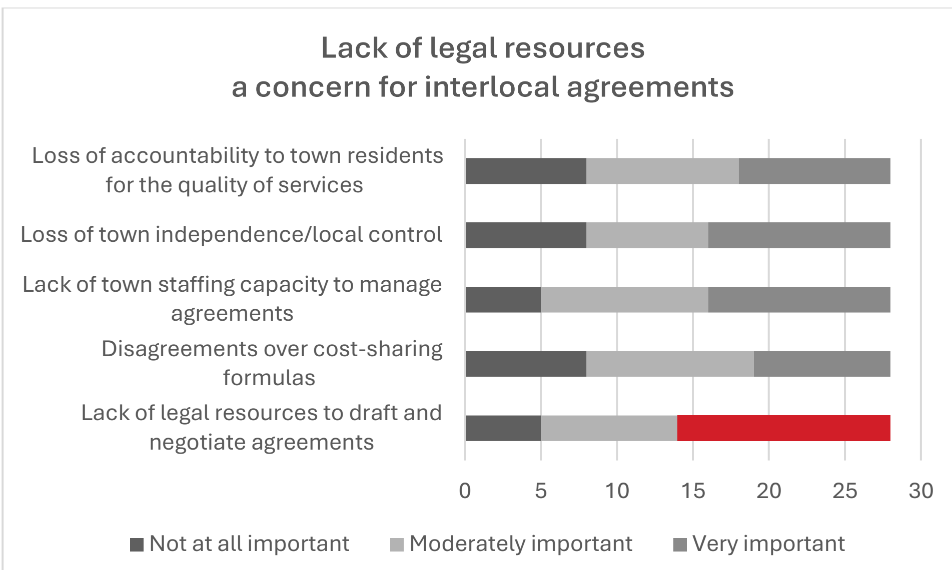

Figure 6

The lack of legal resources and lack of town staffing capacity stood out as a moderately or very important concern to 23 of 28 respondents. Lack of legal resources was a particularly large concern among respondents reporting no interlocal agreements or plans for agreements (rated as "Very important" by 7 of 12 of such respondents). At least half of these respondents also rated as "Very important" loss of independence/local control (7 of 12) and loss of accountability (6 of 12).

Respondents who were "not sure" about their plans for interlocal agreements often cited lack of legal resources (3 of 8) and lack of town staffing capacity (4 of 8) as very important concerns. These respondents did not frequently cite disagreements over cost sharing (1 of 8), loss of independence/local control (2 of 8), or loss of accountability (1 of 8). Among towns who might be considering interlocal agreements, concerns about legal and staffing resources appear to predominate.

Interestingly, responses suggest a weak positive association between the perception that lack of legal resources is a barrier to entering into interlocal agreements and a respondent's current satisfaction with either access to or quality of legal services and resources.[62]

Access to Quality Legal Services

Legal services and legal resources occupy the crucial intersection between incorporated towns' statutory powers and duties on one hand and their capacity to deliver services and solve local problems on the other. The survey asked respondents how they obtain legal services and resources, and how satisfied they are with their access to and the quality of these services and resources.

Services and Resources Used

Respondents were given a list of five possible services and resources and asked to indicate how frequently they used each (regularly, sometimes, or never). The results are summarized in Figure 7 below.

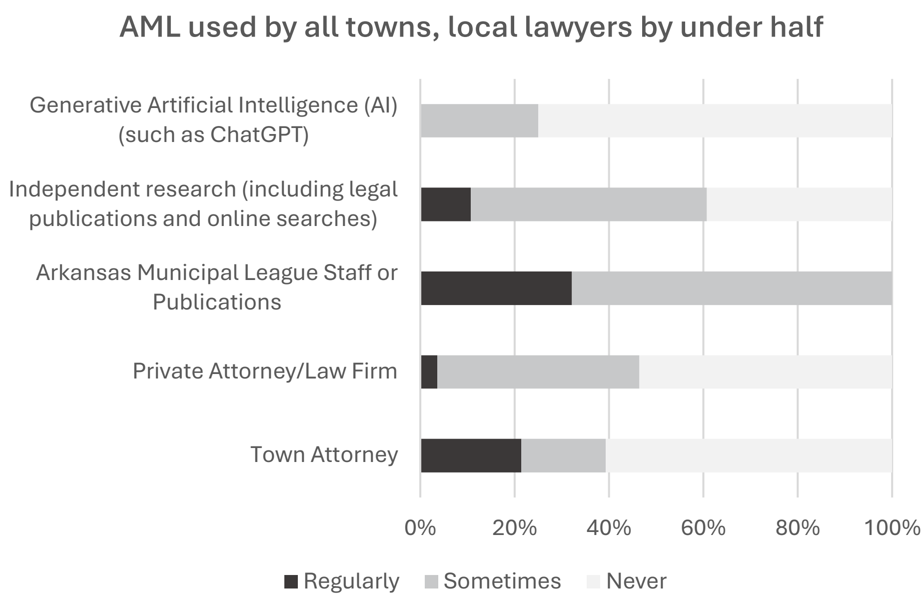

Figure 7

[62] Concern rankings were ordinally encoded as "not important" = 0, "moderately important" = 1, and "very important" = 2. Satisfaction rankings for access and quality were encoded as "poor" = 0, "fair" = 1, and "very important" = 2. Spearman rank correlation coefficient and p values between perception of legal resources as a barrier and access to legal services: $r_s = 0.29$, $p = 0.14$. Spearman rank correlation coefficient and p values between perception of legal resources as a barrier and quality of legal services: $r_s = 0.26$, $p = 0.18$.

Arkansas Municipal League staff and publications were the most frequently used legal services and resources. All respondents used AML services at least sometimes and more respondents used them regularly than any other resource. Towns that had municipal attorneys often (though not always) used them regularly. Almost half of respondents reported using private attorneys or law firms at least sometimes, though only one used them regularly. Over half reported conducting independent legal research. As of the survey period (June 2026), no respondents used generative AI regularly, but 6 of 28 used it sometimes.

Satisfaction with Legal Services and Resources

Respondents were then asked to rate their overall access to legal services and resources, and the overall quality of the services and resources they could access, each on a scale of "good", "fair", or "poor."

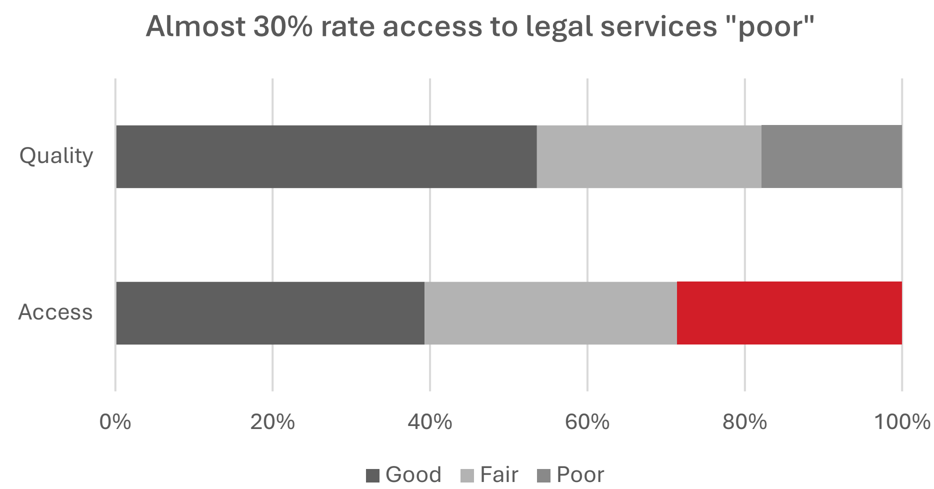

Figure 8

Almost a third of respondents rated their access to legal services as "poor" (8 of 28) and less than 40% (11 of 28) ranked their access as "good." Respondents rated the legal services they did have access to somewhat more favorably: just under 20% (5 of 28) ranked quality of services as "poor" and more than half (15 of 28) ranked quality as "good."

Converting respondents' rankings of access and quality into numerical scores reveals the relationships between the services and resources that respondents use and their satisfaction with access and quality, and between access and quality. In the discussion below, "poor", "fair", and "good" ratings are converted into numerical scores of 0, 1, and 2, respectively. Figure 9 below uses these numerical conversions to show how the satisfaction among regular users of particular services compares with the overall average satisfaction of all respondents and with the satisfaction of respondents who did not use any services regularly. Regular users of a particular service include those who also used another service regularly (for example, those who are regular users of both independent research and AML services would be counted toward the averages in both respective rows).

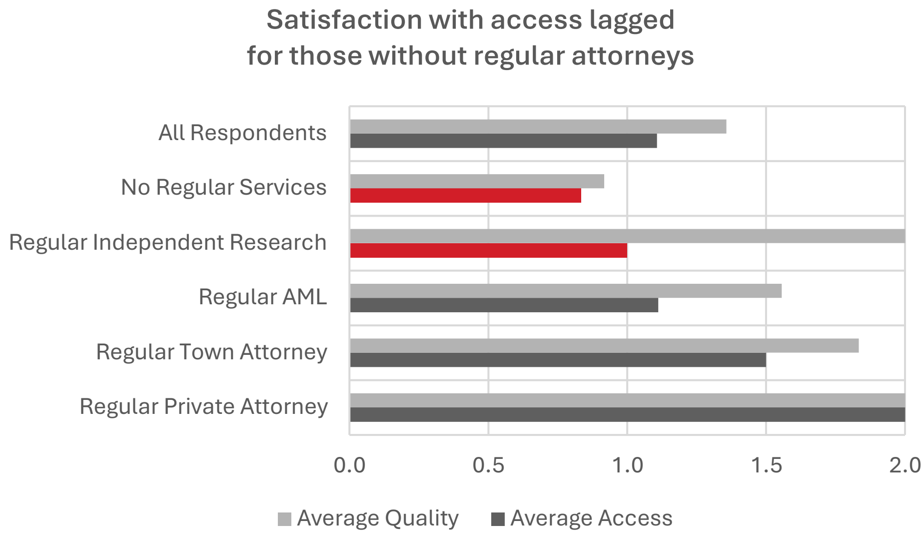

Figure 9

Not surprisingly, the 12 respondents who used no legal services or resources regularly rated their access and the quality of services below the overall average. Regular users of independent research or AML resources also ranked their access to legal services at or below average; regular users of municipal attorneys and private law firms rated their access significantly higher than average.

With regard to quality, on the other hand, the specific service or resource used appeared to matter less than that they regularly used some service or resource. The regular users of all four services and resources reported higher than average levels of satisfaction with overall quality

Municipal attorneys

The survey asked about municipal attorneys in two contexts. First, respondents were asked if their town has a municipal attorney. Second, respondents were separately asked whether they use a municipal attorney. The responses did not entirely overlap. While all respondents that reported having a municipal attorney used the municipal attorney's services at least sometimes, 5 of the 11 respondents who reported using a municipal attorney did not report having a municipal attorney.

> *The satisfaction ratings did not show any clear differences between respondents who reported having municipal attorneys and those who did not with regard to access to or quality of legal resources.*

It's not clear why these respondents reported using municipal attorneys even though they didn't report having one. One possibility arises from the distinction made under Arkansas law between municipal attorneys (who may be elected or appointed but must in either case of residents of the town) and other attorneys who the town contracts to provide legal services. Respondents may have interpreted the first question as referring to elected or appointed municipal attorneys only and the second question as referring, on one hand, to elected and appointed municipal attorneys and, on the other, to contracted attorneys who regularly work for the town but do not actually hold the title of municipal attorney.

Interestingly, the satisfaction ratings did not show greater satisfaction with regard to access to or quality of legal resources among incorporated towns with municipal attorneys – in fact, respondents from these towns were less satisfied with access and quality.

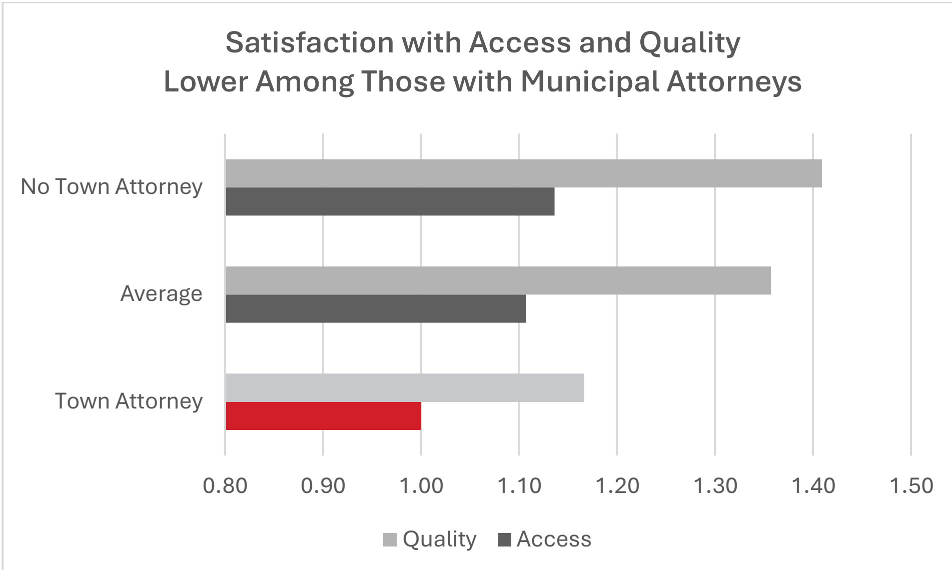

Figure 10

While not all respondents from towns with municipal attorneys reported using them regularly (some only reported using them "sometimes"), those who did use them regularly reported higher than average satisfaction levels with both access (1.25 versus an average of 1.11) and quality (1.75 versus 1.36).

Satisfaction with Legal Services and Resources Across AADO Districts

Satisfaction with access and quality showed considerable variation across AADO Districts. in particular, the Southwest and White River regions reported poor access and quality.

Table 2

Southwest and White River towns reported low satisfaction

	Average of Access	Average of Quality	Towns in Region
Central	2.00	2.00	1
East	1.67	1.67	6
Northwest	1.00	1.25	4
Southeast	1.33	1.67	3
Southwest	**0.25**	**0.50**	**4**
West	2.00	2.00	1
West Central	1.50	1.50	4
White River	**0.40**	**1.20**	**5**

On the other hand, the results do not suggest that satisfaction with access and quality is associated with the racial composition, average per capita income, poverty rates, or percentage of residents above age 60.[63]

Major Issues in Incorporated Towns

The survey included several questions about what respondents saw as the major issues facing their town and the barriers they faced in addressing them. Information about these barriers helps shed light on the adequacy of the institutional and legal capacities discussed above.

Top-Priority Issues

The survey presented respondents with a list of 16 possible issues and asked them to select their top three priorities. It then asked them to identify what, if any, steps they've taken to address these issues and what barriers have partially or completely prevented them from addressing them.

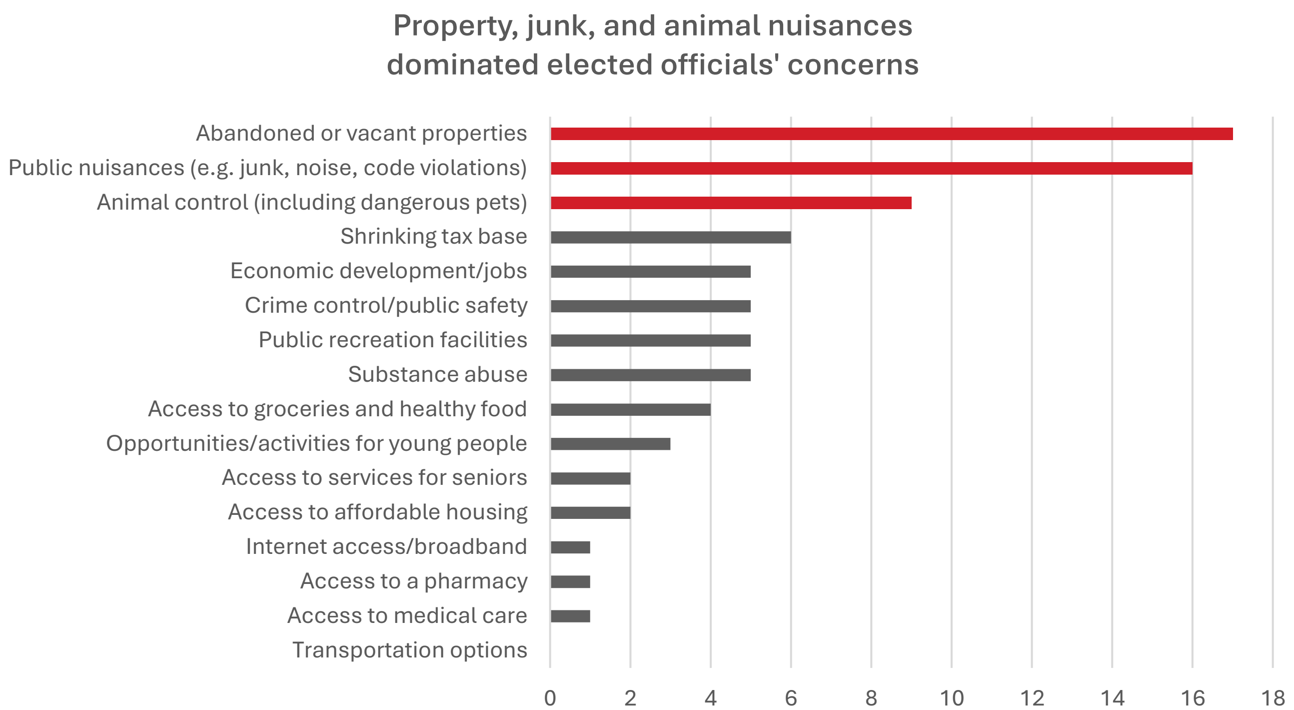

Figure 11

"Abandoned or Vacant Properties" and "Public Nuisances" were the most common issues across towns. "Animal Control" was also a significant issue for several towns.

The discussion below will first examine the most common barriers respondents identified regardless of the particular issue in question and then examine in more detail the barriers identified in relation to each of the three most common issues.

[63] Statistical results on file with author.

Efforts to Address Issues

Most respondents (21 of 28) reported that they have taken steps to address at least one of their top three issues. On the other hand, fewer than half have addressed more than one issue and only 2 of 28 have addressed all three of the top-priority issues they identified. Overall, respondents reported that their towns had taken steps to address 44% of the total number of issues reported.

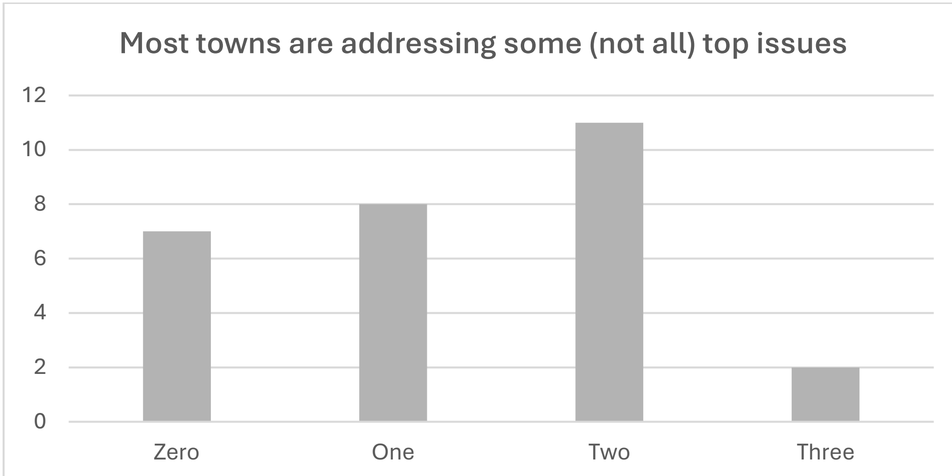

Figure 12

Barriers to Addressing Issues Generally

Respondents were asked to rate the severity of barriers in four different categories: financial, legal and regulatory, administrative and institutional, and political and community.

The survey identified four potential financial barriers. Of these, respondents reported that limited municipal revenue was the most pervasive and serious barrier. It was a partial or complete barrier in 93% of cases and a complete barrier in 49%. Other financial barriers were also significant, especially restrictions on available funds and lack of capacity to write grant applications or administer grants.

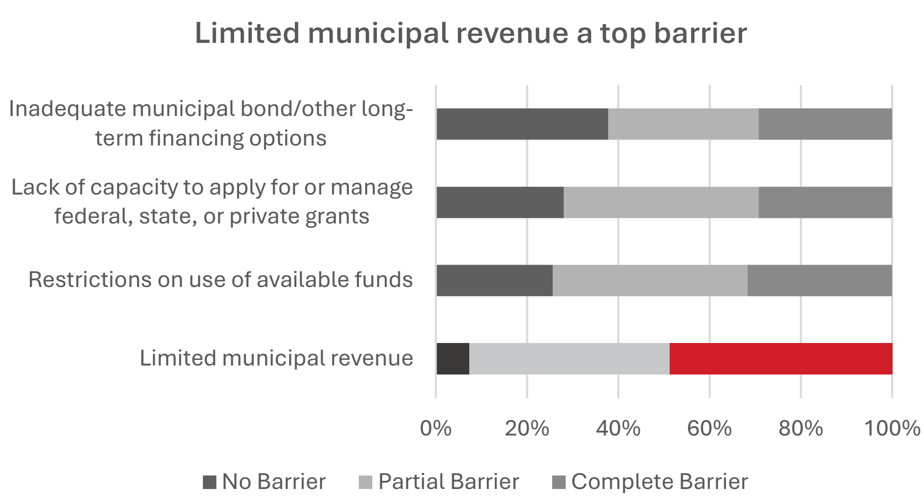

Figure 13

Legal and regulatory barriers were on the whole less likely to serve as complete barriers to addressing issues but were still viewed as partial or complete barriers in the majority of cases.

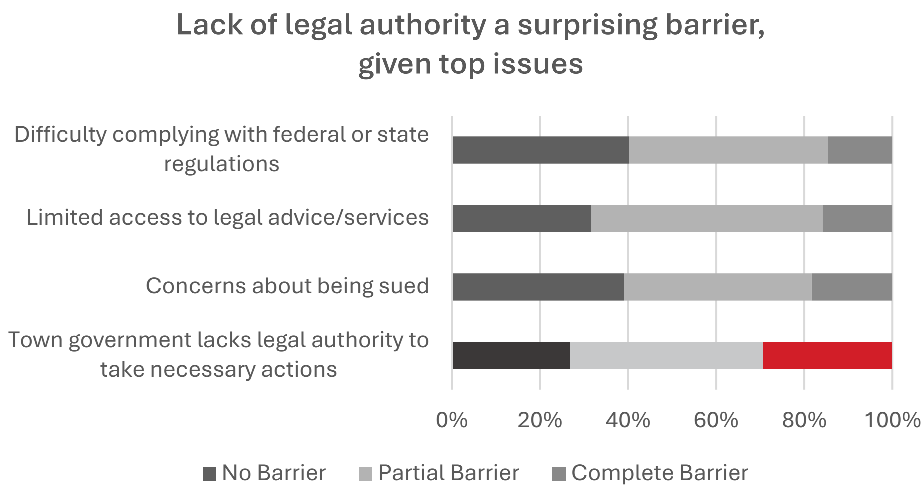

Figure 14

Respondents cited "lack of legal authority" as the most significant barrier in this category – it was named a "complete barrier" in the largest percentage of cases and "no barrier" in the smallest. This is a surprising result, as state law expressly grants towns authority to address all three of the most common top issues. Limited access to legal services was a complete barrier in 16% of cases and a partial barrier in 52%.

Administrative and institutional barriers relate to the governance capacity. They were on average the most pervasive barriers of any category, cited as at least a partial barrier in 84% of cases. Additionally, they were often viewed as complete barriers to addressing respondents' top-three priority issues (38% of the time, slightly more often than financial barriers, at 36%). Responses are summarized in Figure 15 below.

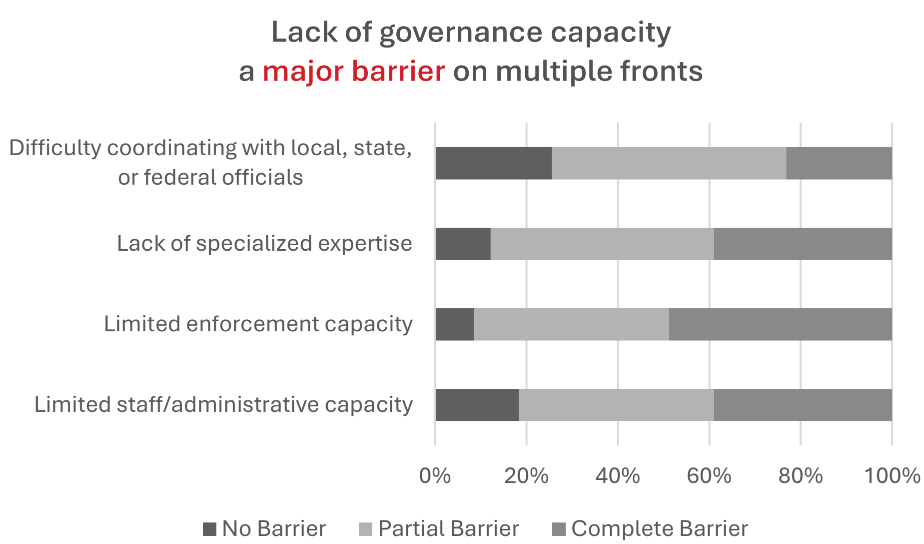

Figure 15

Limited enforcement capacity was the most pervasive issue in this category and only slightly less pervasive than lack of municipal revenue (at least a partial barrier in 91% versus 93% of cases). Limited enforcement capacity, like lack of municipal revenue, was viewed as a complete barrier to addressing respondents' top-three issues 49% of the time.

Political and community barriers, on the other hand, were relatively pervasive but more likely to be viewed as "partial" rather than "complete" barriers.

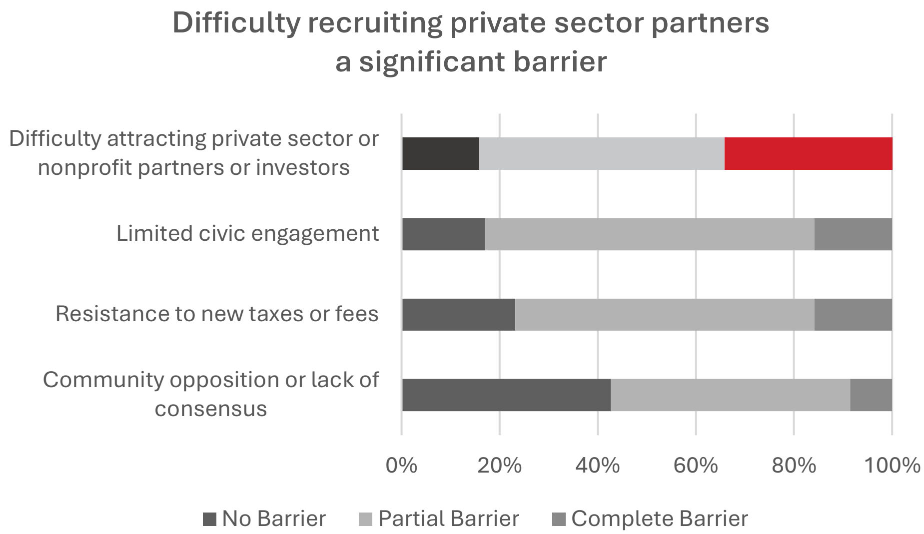

Figure 16

Difficulty attracting private sector or nonprofit partners was the most pervasive barrier in this category and the most likely to be seen as a complete barrier. Interestingly, "community opposition or lack of consensus" was only a complete barrier in 9% of cases, the lowest percentage of any barrier listed. Limited civic engagement and resistance to new taxes or fees were relatively pervasive barriers (at least a partial barrier in 83% and 84% of cases, respectively) but were not frequently viewed as complete barriers.

Most Frequently Listed Issues

Abandoned and Vacant Properties

Respondents were more likely to name "abandoned and vacant properties" among their top three priorities than any other issue. The pervasiveness of the issue makes intuitive sense: as discussed in Part I, rural depopulation has affected many communities in Arkansas, especially in the Delta and Coastal Plains regions of the state. Respondents' towns have been no exception to this general trend: between 2000 and 2020, the average change in population in these towns was -16%.[64] Surprisingly, there was little difference between the rates of population change among towns prioritizing the issue of abandoned buildings and towns not prioritizing the issue (-15% versus -17% growth, respectively).

Many of the most pervasive and complete barriers to solving municipal issues generally applied with special force to the problem of abandoned and vacant buildings. Over 70% of respondents (12 of 17) who

[64] Population figures are from the 2000 and 2020 U.S. Censuses.

listed abandoned or vacant buildings as one of their top three issues stated that "limited enforcement capacity" was a complete barrier to addressing the issue; all 17 respondents listed it as either a complete or partial barrier. Lack of legal authority was also perceived as a major barrier: almost 60% (10 of 17) listed it as a complete barrier and almost 90% (15 of 17) listed it as either a complete or partial barrier.

> *Over 70% of respondents who listed abandoned or vacant buildings as one of their top three issues stated that "limited enforcement capacity" was a complete barrier to addressing the issue.*

The prominence of the "legal authority" barrier is particularly striking because, first, Arkansas law grants municipalities (including incorporated towns) the power to condemn abandoned buildings as nuisances, second, AML has created a model ordinance empowering municipalities to engage in condemnation. The lack of legal authority together with the lack of enforcement capacity points to challenges in navigating a technical and complex process. While professional building inspectors know when to obtain administrative warrants for inspections, how to record conditions that show a building is legally a nuisance and not simply in need of maintenance, how and when to use the court system, and how to go about razing or removing structures, incorporated town officials often lack this expertise and run into countless obstacles in trying to navigate the condemnation process. Even so, just over half of respondents (9 of 17) reported that they had or were planning to take action to address this issue, a higher proportion than for top three issues overall.

Public Nuisance

Public Nuisance (e.g., junk, noise, code violations) was listed as a top three issue nearly as often as abandoned and vacant buildings. Abandoned buildings are, in fact, a particular type of public nuisance, albeit a particularly complicated one to deal with. Other types of public nuisances often mentioned by respondents (especially junk and unsanitary conditions on private property) present similar problems for communities even if they require less drastic action to remediate. As with abandoned buildings, state law provides incorporated towns with authority to pass ordinances addressing public nuisances and a clearly defined set of remedies for enforcing such ordinances. And AML has also drafted a model ordinance for addressing common nuisances, like junk and overgrown weeds.

> *Over 80% of the respondents who listed public nuisance as a top three issue reported taking or planning to take some action to address it.*

Perhaps because actions such as yard clean-ups were less drastic and complicated than razing buildings, over 80% (13 of 16) of the respondents who listed public nuisance as a top three issue reported taking or planning to take some action to address it. Further, respondents were more likely to rate barriers as "partial" rather than "complete" – only 5 of 16 respondents cited "lack of legal authority" as a complete barrier and 6 of 16 cited lack of enforcement capacity as a complete barrier.

Animal Control

Controlling the roaming of livestock and the running of unleashed dogs is another traditional power of municipalities and one granted by statutory authority under Arkansas law. It remains a major issue in many towns and was the third most frequently listed as a top three issue.

The major barriers that towns faced in addressing this issue were primarily problems of administrative and institutional capacity. All 9 respondents listing animal control as a top three issue cited enforcement capacity as a partial or complete barrier to addressing it, and the majority (5 of 9) cited it as a complete barrier. Similarly, all but one respondent cited “limited administrative/staff capacity” and “lack of specialized expertise” as partial or complete barriers; in both cases, 4 of 9 respondents named these as complete barriers.

PART V: AREAS OF FURTHER RESEARCH AND RECOMMENDATIONS

Based on these findings, it is evident that local government officials face significant legal challenges that impede their ability to effectively govern and serve their communities. The insights gathered from this study provide a clear picture of the barriers these towns encounter, including limited resources, a lack of legal expertise, and insufficient support from state-level entities.

The survey focused on incorporated towns' access to quality legal services and administrative capacity, especially as it relates to their highest-priority issues. The recommendations below will also focus on these issues. The survey responses also raised issues related to municipal infrastructure and finance, and where these issues appear significant, they will be flagged as topics for further research.

Given the relatively small size of the sample, which illuminates broad trends but does not necessarily provide a confident guide to specific policy solutions, this Part will emphasize areas of further research. In some cases, however, trends in towns' needs were clear enough that the Survey Team can offer recommendations for a few concrete actions or policies.

Areas of Further Research

Access to Quality Legal Services

The survey results suggest that respondents' lack of access to legal services, and to a lesser extent unsatisfactory quality of the legal services respondents can access, is a significant concern and a partial or complete barrier to solving top priority issues (though lack of revenue and various administrative and institutional barriers appear to be even greater concerns). These results suggest several important follow-up questions.

Future research should clarify where in the legal process gaps in access most commonly arise and which of these gaps would be the highest priority to fill. For example, do towns have unmet needs for legal advice when drafting ordinances or enforcing tax liens? Survey results suggest that lack of legal services and resources is a major barrier to entering into interlocal agreements; future research should determine whether such agreements are a high priority for towns.

> *Respondents from towns with municipal attorneys showed lower-than-average satisfaction with access to and quality of legal services … this result should be confirmed through a larger study.*

Additionally, the survey found some unexpected results that larger studies should confirm and further explore. One major finding was that respondents from towns with municipal attorneys showed lower-than-average satisfaction with access to and quality of legal services. Since the sample size of respondents from towns with municipal attorneys was small, this result should be confirmed through a larger study.

Similarly, the survey found regional variations in satisfaction with legal services. Respondents from the Southwest and White River AADO Districts reported very low satisfaction with access to legal services and resources (and respondents from the Southwest also reported very low satisfaction with the quality of the services they did receive). Future studies should confirm whether this finding holds for larger samples of incorporated towns. If the result holds, the reasons for these regional disparities should be explored.

Law Enforcement and Relations with County Sheriffs

Survey results indicated that respondents were less satisfied with their access to law enforcement services than with EMS or fire protection. Only one respondent reported that their town had a police chief or town marshal, suggesting that in the large majority of cases, towns relied on county sheriffs for law enforcement services. The contrast is particularly striking for fire protection: 9 of 28 towns reported having local fire chiefs or fire marshals and three of those reported having mutual aid agreements in place for fire protection.

> *The lack of satisfaction with law enforcement does not appear to be driven primarily by issues of crime and public safety.*

The lack of satisfaction with law enforcement services does not appear to be driven primarily by issues of crime and public safety. Relatively few (5 of 28) respondents chose crime control/public safety as one of their top three issues. Instead, concern about law enforcement appears related to enforcing municipal ordinances; lack of enforcement capacity was listed as a major barrier to addressing public nuisances and similar issues. When discussing the steps they had taken to address public nuisances, multiple respondents mentioned that while they had passed ordinances, they lacked internal enforcement capacity, and county sheriffs would not enforce. In the context of interlocal agreements, three respondents reported that they had entered into agreements with the county sheriff, though it wasn't clear whether these agreements had led to satisfactory support in enforcing local ordinances.

To better understand the relationship between county sheriffs' offices and incorporated towns and propose possible policy changes, more research is needed. In the case of public nuisances, current Arkansas law allows towns to enter private property to abate nuisances (after giving notice and subject to other legal requirements) and to file a tax lien to enforce recovery of their costs. In principle, this process can be undertaken without the involvement of a law enforcement agency. Future research should clarify if and when support from law enforcement agencies is needed to enforce public nuisance or other local ordinances, what the costs of such enforcement are, and whether towns are better served by internal code enforcement capacity building or interlocal agreements with sheriff offices. Such research could also explore the viability of mutual aid among towns in various aspects of code enforcement, along the lines of mutual aid among local fire departments.

Legal Authority over Abandoned and Vacant Property

The most common top three issue reported by respondents was dealing with abandoned and vacant properties in their towns. Interestingly, despite the existence of statutory authority for towns to raze and remove nuisance buildings and an AML model ordinance empowering towns to condemn properties, a majority of respondents that listed the issue as one of their top three cited "lack of legal authority" as a complete barrier to dealing with the issue.

Future research should confirm whether this result holds for incorporated towns more broadly. If it does, research should clarify whether the responses are based on misperceptions of the law amenable to education or actual gaps in legal authority.

Barriers to Tapping Private and Nonprofit Networks

While the survey suggested that "political and community issues" were rarely complete barriers to addressing respondents' top issues, one significant exception was the difficulty of attracting private or nonprofit partners. Future research should confirm and explore this barrier: what kinds of partners do incorporated towns want to attract and how would they work with these partners? Why are these partners crucial given the nature of respondents' top issues and what currently prevents towns from working with them?

Improving the Financial Resources of Incorporated Towns

Respondents sent a strong signal that lack of tax revenue and other financial resources severely limit their capacity to address their top priority issues. The focus of this project has been primarily on incorporated towns' legal and administrative needs. More research is needed to understand what strategies for sustainable revenue growth are available for incorporated towns and what legal and institutional barriers prevent towns from engaging in these strategies.

Recommendations for Action

Incorporated Towns and Their Representatives Should Participate in the Arkansas Water Plan Stakeholder Process

Respondents indicated broader dissatisfaction with wastewater and stormwater infrastructure than with water systems and local roads. One way to confirm and register this dissatisfaction is through the Arkansas Water Plan stakeholder engagement process, which is currently underway. Town elected officials, the elected representatives for their districts, and the Arkansas Municipal League can provide feedback on the Water Plan, including through a stakeholder survey available on the Arkansas Department of Agriculture website (https://agriculture.arkansas.gov/natural-resources/arkansas-water-plan/).

Legislation Should Empower Enforcement in Incorporated Towns

Over 96% of respondents reported that their towns do not have municipal law enforcement agencies. As discussed earlier, these towns rely on county sheriffs' offices for crime prevention and also attempt to enlist them, sometimes unsuccessfully, in enforcing municipal ordinances.

While further study would clarify the common circumstances law enforcement agencies are truly best placed to handle enforce of municipal ordinances, there are some areas of state law that should be clarified to allow incorporated towns without police departments or town marshals. For example, while Arkansas law permits towns to adopt ordinances removing junk motor vehicles deemed nuisances from private property, the statute governing impoundment and towing of vehicles contemplates that a law enforcement agency must direct removal of the vehicle form property.[65] Further, the law enforcement agencies adopt policies for towing consistent with the statute.[66] Some Arkansas municipalities have adopted ordinances that permit code enforcement officers (rather than law enforcement) to remove junk motor vehicles from private property. So far, their ordinances have survived court challenges, though the issue of whether code enforcement officers are empowered to impound vehicles has not been directly addressed.[67] As incorporated towns clearly have the authority to address public nuisances by ordinance and as junk motor vehicles present a common public nuisance problem, the laws governing nonconsensual towing should be amended to clarify how incorporated towns without law enforcement agencies may direct towing of these vehicles.

Even enforcement mechanisms that do not require a law enforcement agency's involvement can disadvantage municipal towns. For example, Arkansas law empowers first- and second-class cities to recover the costs of condemning buildings and structures through tax liens but does not extend this power to incorporated towns.[68] This omission is striking because, on one hand, incorporated towns are empowered to raze or remove nuisance buildings[69] and structures and on the other hand are permitted to file tax liens to recover costs of abating other property nuisances, such as weeds or trash.[70]

Towns and their Advocates Should Prioritize Administrative and Institutional Capacity Building

One striking finding of the survey was the extent to which lack of administrative and institutional capacity prevents town officials from effectively addressing their highest-priority problems. Along with lack of revenue, these barriers were the most common and most likely to be seen as completely blocking action to address top-priority issues.

> *While these legal tools give incorporated towns an excellent starting point for addressing these issues … the actual mechanics of implementing and enforcing ordinances remains a challenge.*

The role of administrative barriers was especially striking in relation to the top two most common issues, abandoned and vacant buildings and public nuisance issues, because the Arkansas Municipal League has published model ordinances legally empowering towns to address these issues. While these legal tools give incorporated towns an excellent starting point for addressing these issues, the results suggest that

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[65] Ark. Code Ann. § 27-50-1207.

[66] Id.

[67] See e.g., Toby DOYLE, Plaintiff, v. THE CITY OF BAUXITE, ARKANSAS; Bill Shryock; Mayor Eddie Jones Individually, and As His Official Capacity as the Mayor of Bauxite, Arkansas, Defendants., 2023 WL 12185264; Harris v. City of Texarkana, Ark., No. 12-CV-4050, 2014 WL 4656487 (W.D. Ark. Sept. 17, 2014), aff'd sub nom. Harris v. City of Texarkana, 599 F. App'x 262 (8th Cir. 2015)

[68] See Ark. Code Ann. §14-54-904(b).

[69] See Ark. Code Ann. §14-55-203.

[70] See Ark. Code Ann. §14-54-903.

even if towns have legal authority (though state laws empowering municipalities sometimes do not reflect the interests of or realities facing incorporated towns – see above), the actual mechanics of implementing and enforcing ordinances remains a challenge. This is especially the case where enforcement requires technical knowledge or specialized skills.

Given the lack of resources in many incorporated towns, an important step would be to create guidelines, form documents, and training that could guide existing municipal officials and staff through the basics of implementing condemnation and public nuisance ordinances. For example, to help enforce an ordinance relating to weeds and junk on private property, town officials could be provided with template notices and instructions on how and where to deliver them and guidance for filing tax liens. Training and guidance could flag common constitutional issues, such as when an administrative inspection warrant is required, and help town officials and staff understand when to enlist legal help or specialized expertise.

One common design challenge for such resources is that, on one hand, officials in incorporated towns may only intermittently use them and that, on the other, the processes they describe are often relatively complex and subject to various legal requirements. Well-designed materials and training in using them should help give officials a straightforward entry point for taking action, a playbook that can be confidently pulled out and followed when needed. The development of such resources should be done in consultation with elected officials in incorporated towns and ideally tested and refined under the guidance of legally trained advisors.

Where enforcement of an ordinance requires or benefits from specialized expertise or equipment, as in the case of building condemnation or animal control, incorporated towns would benefit from sharing resources with their counties or neighboring municipalities, including through interlocal agreements – the subject of the next recommendation.

Resources Should Be Developed to Help Towns Enter into and Implement Interlocal Agreements

Interlocal agreements could address many of the capacity issues described above. Already used by fire departments and water and sewage systems, then could offer a way for towns to share the costs of employing specialized experts in building inspection or animal control, improve coordination with county sheriffs, or increase buying power for essential goods and services. To take advantage of the potential benefits of interlocal agreements, incorporated towns first need the legal and administrative resources to draft, negotiate, and implement them. Indeed, lack of town staffing capacity and lack of legal resources where the two most pervasive barriers to entering into interlocal agreements, and lack of legal resources was most common cited as a “very important” barrier.

> *To take advantage of the potential benefits of interlocal agreements, incorporated towns first need the legal and administrative resources to draft, negotiate, and implement them.*

Incorporated towns would thus benefit from resources and services aimed at lowering the barriers to entering into interlocal agreements. Most obviously, these resources should include template agreements and guidance on the process needed at both the municipal and county levels for approving these agreements. The Arkansas Municipal League has taken a first step in this regard by sharing a simple interlocal agreement between a municipality and county for the enforcement of tax liens. Incorporated towns would benefit from similar templates addressing other areas of potential interlocal cooperation, with accompanying plain-English explanatory guides describing how to implement such agreements.

Improve Access to On-Demand Non-Resident Municipal attorneys

Fewer than one fourth of respondents indicated that their towns had municipal attorneys. Statistically, this is not surprising: Arkansas only has about 2.2 lawyers per 1,000 residents, and most of these lawyers are based in major metropolitan areas. Even if lawyers were evenly distributed throughout the state, incorporated towns would have on average just one lawyer, who would not necessarily practice municipal law. Without a major increase in the number of lawyers in Arkansas, it is unlikely that most incorporated towns will ever have a resident municipal attorney.

> *Permitting incorporated towns to appoint official municipal attorneys who are not residents could help build institutional capacity and establish continuity in a way that "outside counsel" might not.*

The Arkansas Municipal League serves a crucial role in providing legal services, including litigation defense and ordinance codification services, to its members. In addition to these services, incorporated towns often need basic legal advice on drafting and enforcing individual ordinances or negotiating interlocal agreements.

There are multiple, mutually compatible, strategies for expanding incorporated towns' access to legal advice. The Arkansas Bar Association, the Arkansas Attorney General, the state's law schools, and similar organizations could work with AML to develop the templates and guidance described above, provide direct representation, offer guidance and interpretation on common implementation issues, and conduct continuing legal education for lawyers and training for nonlawyer officials. Further, Arkansas lawyers could be encouraged to contribute pro-bono representation to under-resourced incorporated towns.

Additionally, these organizations could work with counties and municipalities to encourage the development of municipal law practices among private lawyers. This encouragement might take several forms, including the establishment or expansion of state and county bar association sections or committees, placement programs (with financial incentives such as grants or loan forgiveness) for recently admitted lawyers under the mentorship of established municipal lawyers, and the development of reputable directories or lists of qualified municipal attorneys.

Finally, legislators should consider amending Arkansas's relatively strict residency requirements for appointed municipal attorneys. Arkansas law allows municipalities to contract with non-resident attorneys, but the survey suggests that very few incorporated towns use the services of private attorneys regularly. Towns with elected or appointed municipal attorneys are more likely to report using their services regularly, but such municipal attorneys must be electors (residents) of the town where they serve. This is an unnecessary and counterproductive constraint.

Other states permit appointed (and sometimes elected) municipal attorneys, especially those serving very small communities, to reside outside the towns they serve. In Indiana, for example, appointed municipal attorneys for municipalities with fewer than 7,000 residents may reside anywhere in the state. In Kansas, elected and appointed municipal attorneys in towns with fewer than 2,000 residents are exempted from municipal residency requirements (though they must be residents of the county or a bordering county).

Permitting incorporated towns to appoint official municipal attorneys who are not residents could help build institutional capacity and establish continuity in a way that “outside counsel” might not. Since the role of municipal attorney of an incorporated town is unlikely to be a full-time occupation, relaxing residency requirements may allow established attorneys with ties to the town who happen to live elsewhere to maintain a connection through service.

CONCLUSION

After decades of both out-migration and new arrivals, and despite important differences between Arkansas towns and regions, one general truth about small rural communities should be acknowledged: they are the chosen homes for the residents who remain and these residents care about their futures. The survey shows that rural elected officials have clear priorities, that community opposition and lack of consensus is one of the least pervasive barriers to action, and that lack of civic engagement is rarely an insurmountable problem. Instead, the largest barriers to addressing the complex challenges facing incorporated towns are lack of resources and governance capacity.

This report has focused primarily on the lack of legal and administrative capacity to take effective action on behalf of residents. It has highlighted some of the specific gaps in capacities that prevent towns from acting on their highest-priority issues, including lack of enforcement capability, specialized expertise, administrative staffing, and legal services. The report suggests how future research can confirm and deepen our understanding of these shortcomings and propose more targeted interventions for capacity building.

Underlying this lack of governance capacity is, of course, inadequate town revenue. The problem of municipal financing is beyond the scope of this report. Even with existing resources within the state and with what we know now, there are steps we can take to improve the governance capacity of incorporated towns. One common thread in the recommendations this report offers is the importance of sharing knowledge and resources: between state organizations and towns, between counties and towns, and among towns themselves. Shared access to knowledge and resources can and should empower local officials and residents to act on their own priorities to improve the quality of life in their communities.

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Community and Rural Enterprise Development Clinic

The Community and Rural Enterprise Development Clinic represents small businesses, non-profits, cooperatives, and small municipal governments throughout Arkansas. The clinic helps clients with entity formation and business planning, contract drafting, advice on regulatory compliance, and a variety of other non-litigation matters. The clinic also develops resources and engages in community education on matters related to community and rural economic development.

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