

Ordinance 8 Dog Control

Arden's Ordinance # 8 requires that dogs be licensed, wear a license at all times and be accompanied by and under the "reasonable control" of the owner. It provides that unlicensed dogs may be impounded and includes fines for violations.

Ordinance # 8 was enacted in June 1976 and is very similar to a State law then in effect. The State law, Title 16, Section 3048F, captioned "Dogs running at large," has been changed several times since 1976 and is now part of a broader law that deals with dog licensing, welfare and control and dangerous and potentially dangerous dogs. Among the changes, the State took over dog licensing and welfare from the Counties in 2018, including enforcement, and authorized hiring of "animal welfare officers" to enforce the laws.

Ordinance # 8 provides in Section 3: "Dogs must be accompanied at all times by the owner or a custodian authorized by the owner and must be under the reasonable control of said owner or custodian." Section 4 adds: "The attack on a person or animal by a dog shall be ipso facto evidence of lack of control." Section 3048F formerly had a very similar "reasonable control" requirement. It was amended in 2016 to provide that "No dog, unless exempted under this section, shall be permitted to run at large outside at any time, and must be secured by means of a leash capable of restraining the movement of the dog." There are exemptions for "working dogs" and Section 3048F does not apply to a dog "within the real property limits of its owner, or on private property with permission, or within a vehicle being driven or parked. The effect of this change was that dogs generally must be on a leash, not merely under the "reasonable control" of the owner.

Section 6 of Ordinance # 8 provides for fines of \$5 for first offense, \$25 for second offense and \$50 for each subsequent offense. Offenses over one year old are dropped in computing the fine. Section 7 doubles these fines if the dog is unlicensed or not wearing the license. Section 3048F provides for fines of \$25 to \$50, increased for each subsequent offense within 12 months to \$50 to \$100. These fines are doubled for a female dog in heat. If the dog bites someone the fines are increased to \$100 to \$500 and to \$750 to \$1,500 for each subsequent offense. Fines collected pursuant to Section 3048F are remitted to the Department of Health and Welfare.

Section 3048F applies to all of Delaware, including Arden. It does not preclude Arden from having its own ordinance for "dogs running at large." Section 3057F says that animal welfare officers may enforce the dog control ordinances of municipalities, as may all police officers.

The State law and Arden ordinance are similar. The primary difference, as outlined above, is that the State law is a mandatory leash law; Arden's ordinance does not mandate a leash. Some Arden residents might prefer the greater flexibility of Ordinance # 8, but Arden's ordinance cannot override the State law.

There is no advantage to Ordinance # 8 over Section 3048F. Having two similar but different laws covering the same subject matter is confusing to both those who must comply and those who enforce the laws. Ordinance # 8 should be repealed.

Recommendations:

- 1. Repeal Ordinance # 8.*
- 2. Ensure that notice of the State leash law for dogs is given to Arden residents.*