

ORDINANCES #1 AND #2
ARDEN SAFETY CODE

Ordinance #1 was adopted in June 1968. The full text of Ordinance #1 has been lost. There exists a three page “summary” of Ordinance #1 that describes the full Ordinance as “containing 166 sections covering more than 48 pages.” The brief summaries of sections of Ordinance #1 indicate that the ordinance is a motor vehicle code. Many of the sections summarized appear to be similar to Title 21, Motor Vehicles, of the Delaware Code.

Ordinance #2, also adopted in June 1968, consists of two lines. It revises Ordinance #1 “to adjust fines to conform with the Act to Reincorporate.” The Act to Reincorporate is a reference to the State legislation that approved Arden’s current charter.

Arden’s charter authorizes Arden to enact ordinances and to appoint a police force to enforce them. The charter grants jurisdiction of offenses against Arden’s ordinances to the Justice of the Peace Court nearest to Arden, subject to the limitation that fines may not exceed \$100 or imprisonment for more than 30 days.

Title 21 of the Delaware Code, relating to operation of motor vehicles, provides that, “local authorities [includes Arden], except as expressly authorized by law shall not enact or enforce any rules or regulations contrary to this chapter. [Title 21, Chapter 41 Rules of the Road]. Traffic ordinances and regulations adopted by local authorities, and substantially conforming to the sections of this chapter, shall have the same force and effect as the traffic laws of this title.” Section 4101. Presumably, the reasons for these limitations on local authorities include promoting uniformity of traffic laws in different jurisdictions to help motorists to comply and law enforcement agencies to enforce traffic laws.

Because we do not have the text of Ordinance #1, it will be necessary to repeal Ordinances #1 and #2. There is no need to replace Ordinances #1 and #2 because Title 21 provides Rules of the Road that apply in Arden and are enforced by State and New Castle County Police. If Arden were to adopt an ordinance with rules different from Title 21, there might be doubt about whether Arden’s ordinance is “substantially conforming” to Title 21. In addition, conformity with Title 21 promotes compliance and enforcement.

Title 21, Chapter 41, Section 4169, provides for a 25-mph speed limit in a residential district. Arden has adopted a 20 mph limit everywhere except on Harvey Road. See the summary of Ordinance #1, Section 408.1. Chapter 41, Section 4170 provides:

“Whenever local authorities within their respective jurisdictions determine upon the basis of an engineering and traffic investigation that the absolute speed permitted under this chapter is greater than is reasonable or safe under the conditions found to exist, such local authority, subject to subsection (c) of this section, shall determine and declare a reasonable and safe absolute speed limit, which shall be effective when appropriate signs giving notice thereof are erected.”

It would be appropriate for Arden to adopt an ordinance establishing the 20 mph speed limit, if the stipulated conditions are met.

Recommendations:

- 1. Repeal Ordinances #1 and #2.*
- 2. Adopt a 20 mph speed limit*