



Legislation Details (With Text)

**File #:** 22-1041      **Version:** 1  
**Type:** Ordinance      **Status:** Passed  
**File created:** 8/28/2022      **In control:** City Council  
**On agenda:** 9/6/2022      **Final action:** 9/6/2022  
**Title:** Conduct the first reading of the ordinance amending Section 10-8 of the Naperville Municipal Code to establish a \$900 administrative fee for registered owners of motor vehicles that engage in fleeing or attempting to elude a peace officer

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Fleeing Adminstrive Fee Ordinance (Final)

| Date     | Ver. | Action By    | Action                              | Result |
|----------|------|--------------|-------------------------------------|--------|
| 9/6/2022 | 1    | City Council | waived the first reading and passed | Pass   |

**CITY COUNCIL AGENDA ITEM**

**ACTION REQUESTED:**

Conduct the first reading of the ordinance amending Section 10-8 of the Naperville Municipal Code to establish a \$900 administrative fee for registered owners of motor vehicles that engage in fleeing or attempting to elude a peace officer

**DEPARTMENT:** Police Department

**SUBMITTED BY:** Jason R. Arres, Chief of Police

**BOARD/COMMISSION REVIEW:**

N/A

**BACKGROUND:**

The City of Naperville has experienced an increase in motor vehicle fleeing and eluding incidents annually since 2019. See below.

- Prior to 2020 - 19 (annual average)
- 2020 - 48
- 2021 - 101
- 2022 (to date) - 80

Under the Illinois Criminal Code (625 ILCS 5/11-204) fleeing or attempting to elude a peace officer occurs when any driver or operator of a motor vehicle who, having been given a visual or audible signal by a peace officer directing such driver or operator to bring his vehicle to a stop, willfully fails or

refuses to obey such direction, increases his speed, extinguishes his lights, or otherwise flees or attempts to elude the officer.

The Naperville Police Department's pursuit policy is similar to most agencies not only in the area, but also in the country, as it requires a forcible felony to engage in a motor vehicle pursuit.

While these pursuit policies have been in place for many years, public knowledge that police are limited from engaging in pursuits related to minor offenses has resulted in an increase of incidents of fleeing and eluding.

Motorists who flee are disregarding traffic laws and traffic control devices/signals, speeding, disregarding stop signs, and making dangerous lane changes. All of these actions endanger other motorists traveling on roadways.

Investigation and prosecution of fleeing and eluding cases require significant police resources, including, but not limited to, multiple hours spent reviewing video, preparing police reports, conducting interviews, and conducting internal administrative reviews; often without any arrests due to not being able to positively identify the driver of a fleeing vehicle.

Without a positive identification of the driver, the City cannot build a prosecutable criminal case to identify the offender and hold them accountable. For example, although an officer may observe a fleeing vehicle's license plate, that may not be enough to establish who in fact was driving the vehicle at the time. If the officer cannot identify the specific driver, without cooperation from the registered owner, the case is difficult to build. Follow up investigations with registered owners are not always successful because they have no obligation to cooperate and share the identity of the driver or who last used the vehicle.

### **DISCUSSION:**

Prior to 2020, when the City averaged less than 20 of these occurrences per year, absorbing the resource cost was manageable. However, with an average of almost 10 incidents *per month*, an unreasonable strain has been placed on police resources. A staff analysis has determined that it costs the police department no less than \$900 in resources for every incident of motor vehicle fleeing and eluding.

As stated above, absent a positive identification of a driver, the registered owner is in the best position to know who is operating the motor vehicle as well as prevent it from being used to flee or attempt to elude a peace officer.

In an effort to recover the significant cost the police department incurs related to these incidents, staff recommends passing an ordinance that assesses a \$900 administrative fee to the registered owner of any vehicle that flees. This fee would be administratively assessed by the City to the registered owner of the vehicle. The administrative fee is not calculated as a penalty, or as a revenue generating fee, rather it is only enacted to recover a portion of the police resources expended in connection with this criminal activity. If the registered owner elects to dispute the fee, it would be done through the police department's administrative hearing process.

### **FISCAL IMPACT:**

The fiscal impact will be dependent on the number of fleeing and eluding incidents. The administrative fees collected will offset the cost of the investigation of these cases by the police

department.