

Business Impact Estimate

Proposed ordinance's title/reference:

Ordinance #39-24 Enact Article XVI – “School Zone Speed Enforcement” – Chapter 12 of the Cape Coral, Florida Code of Ordinances; establishes a school zone speed enforcement program and authorizes the use of speed detection systems within the identified school zones in the City of Cape Coral; provides for program implementation requirements; provides for designation of school zones; provides for enforcement and administrative procedures; provides for collection of evidence, public records, and retention requirements; provides for annual reporting requirements; provides for the remittance of collected fines and costs; resolution of conflicting laws; provides for codification.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes.

In accordance with the provisions of controlling law, the City of Cape Coral hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

On July 1, 2023, House Bill 657 went into effect which authorized municipalities to use speed detection systems in accordance with certain technical specifications established by the Florida Department of Transportation to enforce the speed limit in a school zone at specified periods. Prior to utilizing those systems, municipalities are required to adopt an ordinance authorizing the placement and installation of speed detection systems and creating administrative and enforcement procedures for the use of speed detection systems. HB657 requires a public awareness campaign at least 30 days prior to the commencement of the enforcement of violations. During such time, only warnings may be issued.

The purpose and intent of the Ordinance is to protect the health, safety, and welfare of citizens of the City of Cape Coral by authorizing the placement or installation and use of speed detection systems on roadways within the jurisdiction of the City, to promote compliance with speed limits in school zones, and to adopt a quasi-judicial system to enforce violations.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the City of Cape Coral, if any:

There will only be an economic impact to a private, for-profit business if that business is the registered owner of a motor vehicle that commits a school zone speed infraction, as articulated below.

(a) An estimate of direct compliance costs that businesses may reasonably incur;

There are zero direct compliance costs. A business will only be impacted by this Ordinance if a motor vehicle registered to the business commits a school zone speed infraction and the business either fails to timely submit an affidavit establishing an exception to liability or does not prevail after a hearing to challenge the violation. Pursuant to the Ordinance and section 316.1896, Florida Statutes, the registered owner of the violating vehicle is responsible and liable for paying the applicable fine unless the owner can establish one of the enumerated exceptions in the statute. One of the exceptions is that the motor vehicle was, at the time of the violation, in the care, custody, or control of another person; this could be an individual employee/driver of the business's vehicle. Pursuant to section 318.18(3)(d), Florida Statutes, the penalty/fine for a school zone speed infraction is \$100.00. If the registered owner of the violating vehicle elects to contest a notice of violation at a hearing and the violation is upheld by the local hearing officer, the local hearing officer may levy administrative costs up to a maximum of \$250, in addition to the \$100 fine, pursuant to sections 316.1896 and 316.0083(5)(e), Florida Statutes. If the registered owner fails to pay the fine on the notice of violation, elect a hearing, or timely submit an affidavit establishing a statutory defense to liability, a uniform traffic citation is issued and sent to the County Court. Uniform traffic citations remain subject to the \$100 fine, plus court costs as established by state law pertinent to traffic infractions disposed of by the County Court

(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible;

A business will be subject to a fine under this Ordinance only if a motor vehicle registered to that business commits a school zone speed infraction, with the same explanation and rationale as above.

(c) An estimate of the City of Cape Coral regulatory costs, including estimated revenues from any new charges or fees to cover such costs:

There will be an indeterminate impact on the City with respect to the staff and resources necessary to administer this program. The financial impact will vary depending on the terms of the vendor agreement(s) entered into to facilitate this program, the number of violations captured by the Speed Detection Systems, and the number of hearings requested and conducted. Per the Ordinance and section 316.1896, Florida Statutes, the \$100 fine collected by the City for each school zone speed infraction must be remitted as follows:

(i) Twenty dollars must be remitted to the Department of Revenue for deposited into the General Revenue Fund.

(ii) Sixty dollars must be retained by the City and must be used to administer speed detection systems in schools zones and other public safety initiatives.

(iii) Three dollars must be remitted to the Department of Revenue for deposit into the Department of Law Enforcement Criminal Justice Standards and Training Trust Fund.

(iv) Twelve dollars must be remitted to the school district in which the violation occurred and must be used for school security initiatives, for student transportation, or to improve the safety of the student walking conditions. Funds remitted under this paragraph must be shared with charter schools in the district based on each charter school's proportionate share of the district's total unweighted full-time equivalent student enrollment and must be used for school security initiatives or to improve the safety of student walking conditions.

(v) Five dollars must be retained by the City for the School Crossing Guard Recruitment and Retention Program pursuant to section 316.1894, Florida Statutes.

If the registered owner of the violating vehicle elects to contest a notice of violation at a hearing and the violation is upheld by the local hearing officer, the local hearing officer may impose administrative costs up to a maximum of \$250, which are retained by the City pursuant to sections 316.1896 and 316.0083(5)(e), Florida Statutes. If the registered owner fails to pay the fine on the notice of violation, elect a hearing, or timely submit an affidavit establishing a statutory defense to liability, a uniform traffic citation is issued and sent to the County Court. Uniform traffic citations remain subject to the \$100.00 fine, plus court costs as established by state law pertinent to traffic infractions disposed of by the County Court.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

Indeterminate. A business will be impacted by this Ordinance only if a motor vehicle registered to the business commits a school zone speed infraction, as outlined in 2(a), above.

4. Additional information the governing body deems useful (if any):

This Ordinance may be exempt from the BIE requirement on two grounds:

First, the Ordinance is “required for compliance with Federal or State law or regulation,” per section 125.66(3)(c)1., Florida Statutes. Section 316.008(9)(c), Florida Statutes, provides that “A county or municipality must enact an ordinance in order to authorize the placement or installation of a speed detection system on a roadway maintained as a school zone as authorized by this subsection.”

Second, the Ordinance “is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the local government,” per section 125.66(3)(c)4., Florida Statutes. Section 316.008(9)(b), Florida Statutes, authorizes a municipality to contract with a vendor to place or install a speed detection system within a school zone, and such systems must be authorized by ordinance pursuant to section 316.008(9)(c), Florida Statutes.

This BIE has nevertheless been prepared for the benefit of the Mayor and City Council, the public, and in a good faith effort to comply with state law.