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Via rules.cityofnewyork.us

To: New York City Department of Transportation

Date: July 14, 2025

Re: **COMMENT IN OPPOSITION TO PROPOSED RULE ESTABLISHING A SPEED
LIMIT FOR E-BIKES**

The New York City Department of Transportation (“DOT”) lacks the power to enact, via the administrative rulemaking process, speed restrictions for people operating bicycles with electric assist (“e-bikes”). Such a rule would exceed DOT’s power under Section 2903(a) of the New York City Charter (“City Charter”) because New York Vehicle and Traffic Law (“VTL”) § 1242(3)(a) provides that the maximum speed of e-bikes in New York City may only be regulated “by local law” passed by the New York City Council.

DOT’s Notice of Rulemaking states that the proposed rule is authorized by Section 2903(a) of the City Charter. That section states in relevant part:

Except as otherwise provided by law, the commissioner shall have control over and be responsible for all those functions and operations of the city relating to transportation including, without limitation, the following:

a. Parking and traffic operations. The commissioner shall:

(1) make such rules and regulations for the conduct of vehicular and pedestrian traffic in the streets, squares, avenues, highways and parkways of the city as may be necessary.

(emphasis added). Accordingly, DOT’s rulemaking power is necessarily constrained by any restrictions imposed by state or city law.

Here, the very state law that legalized e-bikes forbids DOT for establish a maximum speed via rulemaking. E-bikes were legalized by the state legislature in 2020. *See* L.2020, c. 58, pt. XX. The legislature created three classes of e-bikes: 1) pedal assist e-bikes that provide electric assistance up to a maximum speed of 20 mph; 2) throttle e-bikes that provide electric assistance up to a maximum speed of 20 mph; and 3) solely in New York City, throttle e-bikes that provide electric assistance up to a maximum speed of 20 mph. VTL § 102-c.

Generally, e-bikes are subject to the same laws, rules, and regulations as non-electric bicycles. VTL §1242(1). However, the state legislature adopted several additional provisions that only apply to e-bikes and also established a process by which localities may further regulate e-bikes. VTL §1242. Under VTL §1242(3)(a), “**the governing body** of any city, town or village may, **by local law or ordinance**, further regulate the time, place and manner of the operation of bicycles with electric assist including, but not limited to, maximum speed” (emphasis added).

DOT is not “the governing body” of the City of New York, and its rules are not “local law[s] or ordinance[s].” Only New York City Council may enact local laws. Accordingly, any restrictions on e-bike maximum speeds must be enacted by the council. Any DOT rule purporting to set a maximum speed for e-bikes would violate VTL §1242(3)(a) and exceed the rulemaking power granted to DOT by Section 2903(a) of the City Charter.

In public statements, DOT has pointed to its promulgation of rules regulating e-cargo bikes, including setting a maximum speed limit of 15 mph, as evidence that it has the power to establish a maximum speed limit for e-bikes. *See* Kevin Duggan, *How Will E-Bike Speed Limits Actually Work*, Streetsblog NYC (June 6, 2025, 12:03 AM EDT), <https://nyc.streetsblog.org/2025/06/06/how-will-e-bike-speed-limits-actually-work>; *see also* *Pedal-Assist Commercial Bicycles*, The City Record Online (Mar. 27, 2024), <https://a856-cityrecord.nyc.gov/RequestDetail/20240315010>. However, if anything, the e-cargo bike regulations show that DOT understood that it did not have the power to regulate any vehicle that falls under the state law definition of e-bikes.

In adopting the e-cargo bike regulations, DOT created an entirely new class of vehicle called a “pedal-assist commercial bicycle,” which it defined with surgical procession to exclude e-bikes as defined by state law. Under state law, a “bicycle with electric assist” has two or three wheels and is a maximum of 36 inches wide. VTL §§ 102, 102-c. Under DOT rules a “pedal-assist commercial bicycle” is “(A) more than 36 inches but no more than 48 inches wide and equipped with 2, 3, or 4 wheels or (B) no more than 36 inches wide and equipped with 4 wheels.” 34 RCNY § 4-01(b). As illustrated in the table below, these definitions have no overlap:

	maximum width of 36"	more than 36" up to a maximum width of 48"
2 or 3 wheels	bicycle with electric assist per VTL	pedal-assist commercial bicycle per DOT rules
4 wheels	pedal-assist commercial bicycle per DOT rules	pedal-assist commercial bicycle per DOT rules

At the very least, this shows that, when drafting the e-cargo bike regulations in 2023, DOT took great care to avoid covering anything that is defined as an e-bike under the VTL. The obvious reason for doing this is because, under VTL §1242(3)(a), the exclusive power to regulate such e-bikes is reserved to the City Council, not DOT.

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DOT should withdraw the proposed e-bike speed limit rule because it is illegal under VTL §1242(3)(a) and exceeds DOT's rulemaking authority under Section 2903(a) of the City Charter. Should DOT attempt to implement the rule, this office is prepared to bring an Article 78 proceeding to strike it down.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Brandon W. Chamberlin', with a long horizontal flourish extending to the right.

THE LAW OFFICE OF ADAM D. WHITE

By: Brandon W. Chamberlin