

LOCAL LAW INTRO. NO. _____-2023

A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 542 concerning the regulation of Lithium Ion Batteries.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. The Laws of Westchester County are hereby amended to include a new Chapter 542 to read as follows:

**CHAPTER 542
REGULATION OF LITHIUM ION BATTERIES**

Sec. 542.11 Purpose.

Sec. 542.21. Definitions.

Sec. 542.31. Sale, Lease, Rental and Storage of E-Bikes and Electric Mobility Devices.

Sec. 542.41. Sale of Second Use Lithium-Ion Batteries.

Sec. 542.51. Posting of Signs.

Sec. 542.61. Public Education and Outreach.

Sec. 542.71. Promulgation of Rules and Regulations.

Sec 542.81. Enforcement, Violations and Penalties.

Sec. 542.91. No Private Right of Action.

Sec. 542.101. Severability.

Sec. 542.11. Purpose.

The purpose of this Chapter is to help prevent unnecessary fires and fire-related tragedies caused by the use and/or misuse of E-bikes and electric mobility devices which utilize lithium-ion batteries by prohibiting the sale, lease or rental of same unless it utilizes a properly graded, factory-installed battery. Damaged or unstable batteries and improper charging, storage or disposal can cause the batteries to overheat, leading to an explosive, aggressive fire that spreads rapidly, can reignite and is challenging to extinguish. As such, educating the public of the potential hazards associated with the use and storage of powered mobility devices as well as the safety measures which could mitigate those risks through the use of appropriate and required signage will allow consumers to make smarter and safer buying choices.

Sec. 542.21. Definitions.

- A. “Commissioner” shall mean the Commissioner of the Westchester County Department of Emergency Services;
- B. “County” shall mean the County of Westchester;
- C. “Department” shall mean the Westchester County Department of Emergency Services;
- D. “Director” shall mean the Director of the Westchester County Office of Weights and Measures-Consumer Protection;
- E. “Office” shall mean the Westchester County Office of Weights and Measures-Consumer Protection;
- F. “Code” shall mean the County of Westchester Consumer Protection Code;
- G. “Consumer” shall have the definition set forth in Section 542.11 of the County Consumer Protection Code;
- H. “Person” shall include without limitation any individual, firm, association, joint venture, co-partnership, group or corporation or any other legal entity or combination of entities whatsoever;
- I. “Retail Store” shall have the same meaning as set forth in Section 863.11 (13) of the County Consumer Protection Code;
- J. “Lithium-Ion Battery” shall include, but not be limited to, a storage battery in which an electrical current is generated by lithium ions embedded in a carbon graphite or nickel metal-oxide substrate placed in a high viscosity carbonate mixture or gelled polymer electrolyte;
- K. “Second-use Lithium-Ion Battery” shall mean a lithium-ion battery that has been assembled or reconditioned using cells removed from used batteries;
- L. “E-Bike” shall mean a bicycle with electric assist as such term is defined by Section one hundred two-c of the New York State Vehicle and Traffic Law;
- M. “Electric Mobility Device” shall mean an electric scooter, as such term is defined by Section one hundred fourteen-e of the New York State Vehicle and Traffic Law, or any other device used for personal mobility that is powered by a lithium-ion or other storage battery. The term “Electric Mobility Device” shall not include e-bikes, powered wheelchairs, or other mobility devices designed for use by persons with

disabilities, or any vehicle that is capable of being registered with the New York State Department of Motor Vehicles.

Sec. 542.31. Sale, Lease and Rental of E-Bikes, Electric Mobility Devices and Storage Batteries for Said Devices.

A. No person shall distribute, sell, lease, rent or offer for sale, lease or rent an E-bike or electric mobility device unless:

1. The electrical system for said E-bike or electric mobility device has been certified by an accredited testing laboratory for compliance with one of the following standards:

- a. The Underwriters Laboratories (UL) Standards 1642, 2054, 2580 and 2849, 2271, 2272; or
- b. The International Electrotechnical Commission (IEC) Standards 62133, 60086-4, 61960 and 62281; or
- c. The American National Standards Institute (ANSI) Standard C18; or
- d. The Society of Automotive & Aerospace Engineering (SAE) Standards J2464 and J2929.

2. The Certification required in Subsection (1) above or the logo, watermark, or name of such accredited testing laboratory is displayed as follows:

- a. On packaging or documentation provided at the time of sale of such E-bike or electric mobility device; or
- b. Directly on such E-bike or electric mobility device.

B. No E-bike, electric mobility device or storage battery shall be required to display the certification or the logo, wordmark or name of such accredited testing laboratory as specified in Subsection (2) above if such E-bike, mobility device or storage battery:

1. Is being sold or leased used or second-hand by an individual; and

2. Does not include original packaging, or original printed materials or documentation.

C. No person shall sell, lease, rent, distribute or otherwise transfer ownership of any E-bike or electric mobility device with anything other than the manufacturer's recommended lithium-ion battery and charger.

Sec. 542.41. Sale of Second Use or Reconditioned Lithium-Ion Batteries

A. No person, shall assemble or recondition a lithium-ion battery using cells removed from used batteries;

- B. No person shall sell or offer for sale a second use lithium ion battery intended for use in a bicycle with electric assist as defined in section one hundred two-c of the New York State Vehicle and Traffic Law, an electric scooter as defined in section one hundred fourteen-e of the New York State Vehicle and Traffic Law or any other type of electric mobility device.

Sec. 542.51. Posting of Signs.

- A. Every Retail Store located in the County which engages in the sale, lease or rental of E-bikes and/or electric mobility devices shall not sell, deliver, lease or rent any such device to another person unless a notice is posted in the establishment where such E-bikes and/or electric mobility devices are displayed or delivered to the purchaser of same at the entrance of the establishment and in at least one additional area where sales occur conspicuously stating, in no smaller than 24-point type in bold print the following warning:

WARNING

Lithium Ion Batteries are a Fire Risk:

If improperly charged, reassembled, stored or disposed of there is a risk of fire or explosion.

- **Only use the batteries, chargers and cords designed for the device;**
 - **Never charge a device on a bed, couch, or upholstered furniture, in direct sunlight or in an exit pathway (doorway, hallway, etc.);**
 - **Stop using the battery if you notice too much heat, smoke, an odor, sounds or change in shape.**
- B. The Department shall produce and make available to any Retail Store located in the County which engages in the sale, lease or rental of E-bikes and/or electric mobility devices, signs conforming to the requirements of this section.
- C. Failure to post said sign shall be a violation of this Chapter.

Sec. 542.61. Public Education and Outreach.

- A. The Department shall develop an informational campaign to educate the public about the fire and safety risks posed by lithium ion batteries and the safety measures that can mitigate such risks. Such campaign shall address both commercial and personal use of said devices.
- B. The informational campaign required by Subdivision (A) above may include, but may not be limited to: the preparation and creation of handouts, video and social media content, public service announcements and presentation at public forums;

- C. The Department may coordinate its efforts in achieving the campaign outlined in Subsections (A) and (B) above with any and all County Departments, public agencies, not-for-profit organizations, regulatory agencies, municipalities and local fire districts and departments.
- D. The Department may also utilize its fire inspectors, along with local fire chiefs, to conduct site visits throughout the County in an effort to educate the public and increase awareness of the potential dangers associated with the use of lithium ion batteries, and to insure compliance with the various provisions herein.

Sec. 542.71. Promulgation of Rules and Regulations.

The Commissioner is authorized to promulgate such rules and regulations as may become necessary to effectuate the provisions of this local law.

Sec 542.81. Enforcement, Violations and Penalties.

The County Department of Weights and Measures – Consumer Protection shall have jurisdiction to enforce the provisions of this Chapter. The prosecution and punishment of violations hereunder shall be in accordance with the provisions of Chapter 182 and Chapter 277, Article VIII, of the Laws of Westchester County, as such provisions now exist or as they may hereafter be amended, or pursuant to any successor laws to these provisions.

Sec. 542.91. No Private Right of Action.

This local law does not create a private right of action against any Retail Store in the County.

Sec. 542.10. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this local law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§2. This local law shall take effect 60 days after final adoption.