

MOTION TO AMEND ORDINANCE 19-046-O

BY COUNCILOR FORSMAN:

I move to amend Ordinance 19-046-O as follows (proposed amendment **in red**):

The city of Duluth does ordain:

Section 1. That Chapter 24 of the Duluth City Code is hereby amended by adding a new Article VII as follows:

Article VII. Carryout Bags

Section 24-39. Findings of fact and statement of purpose

(a) The Duluth city council finds as follows:

1. Single use carryout bags are polluting city waterways and sewers, endangering wildlife, contributing to climate change, and causing unsightly litter; and

2. Single use carryout bags clog storm-water drains; and

3. Plastic single use carryout bags last for many years in community landfills and are a potential source of harmful chemical pollution; and

4. It is in the best interests of the health, safety and welfare of the citizens and visitors of Duluth to reduce the cost to the city of litter clean up and solid waste disposal and to protect our environment and our natural resources by reducing the distribution of single use carryout bags and incentivizing the use of reusable bags in the city.

(b) The purpose of this Article is to reduce cost of litter clean up and waste disposal and to improve the environment of Duluth by encouraging the use of reusable carryout bags by imposing a pass through fee on single use carryout bags for retail checkout of purchased goods.

Section 24-40. Definitions

(a) Carryout bag. Carryout bag means a paper or plastic bag that is provided by a retail establishment at the check stand, cash register, point of sale or other point of departure to a customer for the purpose of transporting food or merchandise out of the establishment. Carryout bags do not include the following:

1. Any bag without handles used exclusively to carry produce, meats, other food items or merchandise to the point of sale inside a store or to prevent such items from coming into direct contact with other purchase items;

2. Bags provided by pharmacists to contain prescription drugs;

3. Bags used to transport take-out foods and prepared liquids intended for consumption away from the retail establishment; or

4. Newspaper bags, door-hanger bags, laundry-dry cleaning bags, bags used to protect fine art paper or bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags.

(b) Pass-through charge. Pass-through charge means a charge to be collected by retailers from their customers when providing carryout bags and retained by retailers to offset the cost of bags and other costs related to the pass-through charge.

(c) Retail establishment. A retail establishment means any person, corporation, partnership, business venture, public sports or entertainment facilities, government agency, street vendor or vendor at public events or festivals or organizations that sell or provide merchandise, goods, or materials including, without limitation, clothing, food, beverages, household goods, or personal items of any kind

directly to a customer. Not-for-profit organizations, food banks and other food assistance programs are not considered to be retail establishment for the purposes of this section.

Section 24-41. Pass-through charge

(a) Retail establishments shall collect a pass-through charge of not less than five cents for each carryout bag provided to customers. It shall be a violation of this section for any retail establishment to pay or otherwise reimburse a customer for any portion of the pass-through charge. All retail establishment shall indicate on the customer's transaction receipt the number of carryout bags provided and the total amount of the pass-through charge.

(b) No retail establishment shall collect a pass through charge for items purchased by any person using Supplemental Nutrition Assistance Program (SNAP) or Women, Infants, and Children (WIC) Program funds as full or partial payment.

(c) No retail establishment shall charge a pass through fee or prevent a customer from using a bag of any kind that the customer brought for the purposes of carrying goods from such business establishment.

Section 24-42. Signage

Retail establishment must post signage clearly indicating the per bag charge for carryout bags.

Section 24-43. Enforcement and Penalties

(a) The city clerk shall be authorized to assist with the enforcement of the provisions of this article. Violations of this article may be enforced as administrative offenses pursuant to Chapter 12 of the Duluth City Code. This article may also be

enforced by injunction, abatement, mandamus, or any other appropriate civil, administrative or criminal remedy in any court of competent jurisdiction.

(b) A fine may be imposed upon any retail establishment that has provided a carryout bag to a customer in violation of this Article, as follows:

1. A fine not exceeding one hundred dollars (\$100.00) for a first violation;

2. A fine not exceeding two hundred dollars (\$200.00) for a second violation within one year of the first violation; and

3. A fine not exceeding three hundred dollars (\$300.00) for a third violation and subsequent violations within one year of the second or greater violation.

(c) In the event of a continuing violation, each day such offense continues shall constitute a separate additional violation.

(d) If a retail establishment does not violate this Article for one year, a new violation will be considered a first violation.

Section 2. That this ordinance shall take effect on January 1, 2020.