ORDINANCE NO. 2436

ORDINANCE AMENDING CITY OF DAVIS MUNICIPAL CODE ARTICLE 32.05.
TO ALLOW A RESTAURANT TAKE-OUT BAG EXEMPTION AND ESTABLISH
THAT VIOLATIONS MAY BE SUBJECT TO ADMINISTRATIVE CITATIONS

WHEREAS, on November 12, 2013, the City Council of the City of Davis ("City Council")
passed Ordinance No. 2422 to add Article 32.05 of the City of Davis Municipal Code to
implement a disposable bag reduction program; and

WHEREAS, the City desires to modify the disposable bag reduction program so that restaurants
that provide paper bags for take-out food are exempt from collections of the paper bag cost-pass-
through; and

WHEREAS, any applicable business who violates any provision of Article 32.05 is guilty of an
infraction; and

WHEREAS, California Government Code section 53069.4 authorizes the City Council to make
any violation of any City ordinance subject to administrative fines and penalties; and

WHEREAS, the City Council desires to create an alternative approach to enforcing Article 32.05
by making any violation subject to an administrative citation.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DAVIS DOES HEREBY
ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby adopts the recitals of this Ordinance as true and correct
and such recitals are hereby incorporated by reference as though fully set forth in the text of this
Ordinance.

SECTION 2. The following sections are hereby amended to Article 32.05 of the City of Davis
Municipal Code:

32.05.04 Exemptions

An Applicable Business may provide a Reusable Bag or a Recycled Paper Bag at no cost
at the point of sale: (1) to a customer who is participating in the California Special
Supplemental Food Program for Women, Infants, and Children pursuant to Article 2 of
Chapter 1 of Part 2 of Division 106 of the Health and Safety Code, or a customer who is
participating in the Supplemental Food Program pursuant to Chapter 10 of Part 3 of
Division 9 of the Welfare and Institutions Code; or (2) to a customer of a restaurant or
take-out food establishments or other business that receives ninety percent or more of its
revenue from the sale of prepared food to be eaten on or off its premises for take-out
food.
32.05.05 Enforcement

Any Applicable Business violating this article shall be guilty of an infraction and shall be subject to a fine in the amount of one hundred dollars ($100) for the first violation, two hundred dollars ($200) for the second violation, and five hundred dollars ($500) for the third and subsequent violations occurring within a one-year period. An administrative citation may be issued for any violation of this article pursuant to Davis Municipal Code Chapter 1, Article 1.02.

SECTION 3. If any section, subsection, sentence, clause or phrase added by this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section or subsection, sentence, clause or phrase thereof, irrespective of the fact any one or more sections, subsections, clauses or phrases may be declared invalid.

SECTION 4. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same or a summary thereof to be published as required by law.

SECTION 5. This Ordinance shall take effect and be in full force and effect thirty (30) days from and after the date of its final passage and adoption.

INTRODUCED on the 15th day of April, 2014, and PASSED AND ADOPTED by the City Council of the City of Davis on this 27th day of May, 2014, by the following vote:

AYES: Frerichs, Lee, Krovoza

NOES: Swanson, Wolk

Joseph F. Krovoza
Mayor

Zoe S. Mirabile, CMC
City Clerk