

ORDINANCE NO. 18-135

ORDINANCE RESCINDING ORDINANCE NO. 10-117
ORDINANCE RESCINDING ORDINANCE NO. 11-100
ORDINANCE RESCINDING ORDINANCE NO. 11-111

WHEREAS, THE FORT STOCKTON CITY COUNCIL APPROVED ORDINANCE NO. 10-117 ON AUGUST 24, 2010, ORDINANCE NO. 11-100 ON FEBRUARY 8, 2011 & ORDINANCE NO. 11-111 ON AUGUST 23, 2011; (IMPLEMENTATION OF A VOLUNTARY BAN ON PLASTIC BAGS) & FURTHERMORE INCORPORATED & REPEALED FROM CHAPTER 12 OF THE CODE OF ORDINANCES OF THE CITY OF FORT STOCKTON TITLED GARBAGE AND TRASH *, ARTICLE I. IN GENERAL†; SEC. 12-8. – SEC. 12-20. & REPEALING ALL OTHER ORDINANCES OR PORTIONS THEREOF IN CONFLICT, A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the aforesaid Ordinances need to be rescinded, as recommended by the Attorney General of Texas because 1993's Solid Waste Disposal Act prohibits any city from making a rule to "prohibit, restrict, for solid waste management purposes, the sale or use of a container or package in a manner authorized by State law;" &

WHEREAS, the Supreme Court has made it clear that the wisdom or expediency of the law is the Legislature's prerogative, not ours; &

WHEREAS, while we all have the right to engage in the legislative process to mold and shape the course of Texas law, we are all equally required to comply with the law; &

WHEREAS, the City of Fort Stockton is now cognizant of this ruling and knows that the above-mentioned ordinances are unenforceable; &

WHEREAS, although the main objective of the City's previously approved ordinances was to promote the beautification of Fort Stockton through prevention of litter generated from discarded checkout bags.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT STOCKTON, TEXAS, THAT THE PREVIOUSLY APPROVED ORDINANCES ARE HEREBY RESCINDED.

Severability. If any provision, sections, exceptions, subsections, paragraph, sentence, clause or phase of this ordinance or the application of same to any person or set of circumstances, shall for any reason be held unconstitutional, void or invalid, such invalidity shall not affect the validity of the remaining provisions of this ordinance or their application to other persons or sets of circumstances and to this end all provisions of this ordinance are declared to be severable.

Conflicts. All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

Publication. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

THIS ORDINANCE SHALL BECOME EFFECTIVE UPON FIRST & FINAL READING AND ITS PUBLICATION PURSUANT TO LAW.

APPROVED AND ADOPTED on this 25th day of September, 2018.

CITY OF FORT STOCKTON



Joe Chris Alexander, Mayor



Frank Rodriguez III, City Manager

Attest:


Delma A. Gonzalez, City Secretary

Approved As To Form & Legality:



Jesse Gonzalez, Jr., City Attorney