

RESOLUTION NO. 2024 -43

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA CALLING FOR THE PLACEMENT OF A GENERAL TAX MEASURE ON THE NOVEMBER 5, 2024 GENERAL MUNICIPAL ELECTION BALLOT FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF A PROPOSED ORDINANCE AMENDING THE CITY'S TRANSIENT OCCUPANCY (HOTEL) TAX CODE BY INCREASING THE MAXIMUM RATE FROM 9% TO 13%, ADDRESSING ONLINE TRAVEL COMPANY AND OTHER THIRD PARTY BOOKINGS AND MAKING OTHER CONFORMING CHANGES; REQUESTING THE COUNTY OF RIVERSIDE TO CONSOLIDATE SAID ELECTION WITH THE STATEWIDE GENERAL ELECTION OF EVEN DATE; AND SETTING RULES AND DEADLINES FOR ARGUMENTS AND REBUTTALS FOR AND AGAINST THE MEASURE.

WHEREAS, pursuant to Chapter 4.28 of Title 4 (Revenue and Finance) of the Coachella Municipal Code (C.M.C. Sections 4.18.010 through 4.18.140), the City currently imposes a Transient Occupancy (Hotel) Tax ("TOT") at the maximum rate of nine percent (9%) upon guests of hotels and other transient accommodations within the City; and

WHEREAS, the City Council desires to propose an amendment to the Coachella Municipal Code to increase the maximum rate of the TOT from nine percent (9%) to thirteen percent (13%); and

WHEREAS, the City Council also desires to modernize the Coachella Municipal Code to allow for the imposition and collection of the TOT on the full rent charged to a guest for hotel occupancy, whether the occupancy is booked directly by the guest, through online travel companies which enable guests to purchase occupancy via the Internet, or through online short term rental companies operating to facilitate connections in the rental market or otherwise broker short term rentals between a host and a guest, or by similar electronic means; and

WHEREAS, pursuant to Section 9222 of the California Elections Code and Sections 7280 and 7281 of the California Revenue and Taxation Code, the City Council has the authority to place a measure on the ballot regarding the imposition, extension or increase in a local transient occupancy tax to be considered by the voters at a Municipal Election; and

WHEREAS, the TOT is a general tax the proceeds of which are deposited into the City's general fund and which pay for City services such as police, fire and paramedic services, street operations and maintenance, library services, parks and recreation services and general municipal services to the public; and

WHEREAS, on November 6, 1996, the voters of the State of California approved Proposition 218 (California Constitution, Article XIIC), an amendment to the State Constitution which requires that all general taxes which are imposed, extended or increased must be submitted to the electorate and approved by a majority vote of the qualified electors voting in the election; and

WHEREAS, the proposed amendments which increase the rate of the TOT constitute a tax "increase" subject to Proposition 218; and

WHEREAS, the proposed amendments which apply the TOT rate to the total rent charged to a guest for transient occupancy in a hotel (including any retail markup and other charges

imposed through purchase of occupancy through an agent, on-line travel company, or online short term rental company) may also be characterized as an “increase” in the TOT under Proposition 218; and

WHEREAS, pursuant to Proposition 218 (California Constitution Article XIII C, §2(b)), the general rule is that any local election for the approval of an increase to a general tax must be consolidated with a regularly scheduled general election for members of the governing body of the local government; and

WHEREAS, the City’s general municipal elections for officers are held on the first Tuesday after the first Monday in November of each even-numbered year. Therefore, the next regularly scheduled General Municipal Election for the election of members of the City Council will be held on Tuesday, November 5, 2024; and

WHEREAS, based on the above, the City Council desires to submit a measure to the voters at the November 5, 2024 General Municipal Election seeking approval of the proposed TOT rate increase from 9% to 13% and modernizing the ordinance to address online travel company and other third party bookings (the “Measure”). The specific terms relating to the Measure are provided for in the ordinance to be considered by the qualified voters, attached hereto as Exhibit “A” and by this reference made an operative part hereof, and in accordance with all applicable laws; and

WHEREAS, pursuant to Proposition 62 (Government Code Section 53724), a two-thirds (2/3) vote of the City Council membership is required to place the measure on the November 5, 2024 ballot; and

WHEREAS, it is desirable that the General Municipal Election be consolidated with the Statewide General Election to be held on the same date and that within the City the precincts, polling places, voting centers and election officers of the two elections be the same, and that the Riverside County election department canvass the returns of the General Municipal Election and that the election be held in all respects as if there were only one election; and

WHEREAS, it is also desirable to establish deadlines and rules for the submission of written arguments and rebuttals for and against the Measure in accordance with applicable California Elections Code procedures.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. Recitals. The City Council hereby finds and determines that the foregoing recitals are true and correct, are incorporated herein and by this reference are made an operative part hereof.

SECTION 2. Submission of Ballot Measure. Pursuant to California Government Code Section 53724, Elections Code Section 9222, Revenue and Taxation Code Sections 7280 and 7281, and any other applicable requirements of the laws of the State of California relating to the City, the City Council, **by a two-thirds (2/3) vote of its membership**, hereby orders the Measure to be submitted to the voters of the City at the General Municipal Election to be held on **Tuesday, November 5, 2024.**

SECTION 3. Ballot Question. The City Council, pursuant to its right and authority, does hereby order that the Measure shall be presented and printed upon the ballot submitted to the qualified voters in the manner and form set forth in this Section 3. On the ballot to be submitted to the qualified voters at the General Municipal Election to be held on Tuesday, November 5, 2024, in addition to any other matters required by law, there shall be printed substantially the following ballot question:

| | | |
|---|------------|--|
| "Shall the measure to increase the rate of the City's Transient Occupancy (Hotel) Tax from 9% to a maximum of 13%, providing approximately \$350,000 annually until ended by voters for general City services such as City parks, streets and public safety, and applying the tax to all rent charged to hotel guests, including by online travel and short term rental companies, for transient occupancy of any hotel, be adopted?" | YES | |
| | NO | |

SECTION 4. Election Procedures.

- A. The ballots to be used at the election shall be in the form and content as required by law.
- B. Pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of Riverside is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday, November 5, 2024, for the purpose of submitting to the voters the question relating to the City's Measure.
- C. The election services which the City of Coachella requests the Registrar of Voters, or such other official as may be appropriate, to perform and which such officer is hereby authorized and directed to perform, if said Board of Supervisors consents, include: the preparation, printing and mailing of sample ballots; the establishment or appointment of precincts, polling places, voting centers, and election officers, the preparation, printing, mailing and furnishing of vote-by-mail ballots, making such publications as are required by law in connection therewith; the furnishing of ballots, voting booths and other necessary supplies or materials for polling places and voting centers; the canvassing of the returns of the election and the furnishing of the results of such canvassing to the City Clerk of the City of Coachella; and the performance of such other election services as may be requested by the City Clerk.
- D. The City Clerk is authorized, instructed and directed to procure and furnish, or cause to be procured and furnished through the County of Riverside, any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.
- E. The polls, vote centers and/or vote-by-mail drop-off boxes shall be open and the procedures for submitting votes-by-mail or votes at polls and vote centers shall be in accordance with those times and procedures established by the County of Riverside, except as otherwise provided in the Elections Code of the State of California.
- F. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections in the City.

- G. Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form, and manner as required by law.
- H. All ballots shall be tallied at a central counting place and not at the precincts. Said central counting place shall be at a County center as designated by the Registrar of Voters.
- I. The Riverside County Registrar of Voters is hereby authorized to canvass the returns of said election.
- J. The City Clerk of the City of Coachella shall receive the canvass from the County as it pertains to the election on the Measures, and shall certify the results to the City Council, as required by law.

SECTION 5. Arguments and Impartial Analysis.

- A. The City Council authorizes (i) the City Council or any member(s) of the City Council, (ii) any individual voter eligible to vote on the above measure, (iii) a bona fide association of such citizens or (iv) any combination of voters and associations, to file a written argument in favor of or against the Measure, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California, which arguments may be changed until and including **Monday, August 19, 2024**, after which no arguments for or against the Measure may be submitted to the City Clerk. Arguments in favor of or against the Measure shall each not exceed 300 words in length. Each argument shall be filed with the City Clerk, signed, and include the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument.
- B. The City Clerk shall comply with all provisions of law establishing priority of arguments for printing and distribution to the voters, and shall take all necessary actions to cause the selected arguments to be printed and distributed to the voters.
- C. Pursuant to Section 9280 of the Elections Code, the City Council directs the City Clerk to transmit a copy of the Measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the Measure, not to exceed 500 words in length, showing the effect of the Measure on the existing law and the operation of the Measure. The City Attorney shall transmit such impartial analysis to the City Clerk, who shall cause the analysis to be published in the voter information guide along with the Measure as provided by law. The Impartial Analysis shall be filed by the deadline set for filing of primary arguments as set forth in subsection (A) above. The impartial analysis shall include a statement indicating whether the Measure was placed on the ballot by a petition signed by the requisite number of voters or by the City Council. In the event the entire text of the Measure is not printed on the ballot, nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-font bold type, the following: **“The above statement is an impartial analysis of Measure _____. If you desire a copy of the Measure, please call the election official’s office at (760) 398-3502 and a copy will be mailed at no cost to you.”**

- D. That the provisions of this Section 5 herein shall apply only to the election to be held on November 5, 2024, and shall then be repealed.

SECTION 6. Rebuttals.

- A. Pursuant to Section 9285 of the Elections Code of the State of California, when the Clerk has selected the arguments for and against the various City initiated measures which will be printed and distributed to the voters, the Clerk shall send copies of the argument in favor of the measures to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. The authors or persons designated by them may prepare and submit rebuttal arguments not exceeding 250 words. The rebuttal arguments shall be filed with the City Clerk not later than **Thursday, August 29, 2024**. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.
- B. The provisions of this Section 6 herein shall apply only to the election to be held on November 5, 2024, and shall then be repealed.

SECTION 7. Placement on the Ballot. The full text of the Measure shall not be printed in the voter information guide, and a statement shall be printed in the ballot pursuant to Section 9223 of the Elections Code advising voters that they may obtain a copy of the Measure at no cost, upon request made to the City Clerk.

SECTION 8. Delivery of Resolution to County. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions. The City Council directs the City Clerk to deliver copies of this Resolution, including the Measure attached hereto as Exhibit "A", to the Clerk of the Board of Supervisors of Riverside County and to the Registrar of Voters of Riverside County.

SECTION 9. Public Examination. Pursuant to California Elections Code section 9295, the Measure will be available for public examination for no fewer than ten (10) calendar days prior to being submitted for printing in the voter information guide. The Clerk shall post notice in the Clerk's office of the specific dates that the examination period will run.

SECTION 10. CEQA. The City Council hereby finds and determines that the ballot Measure relates to organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment, and therefore is not a project within the meaning of the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines, section 15378(b)(5).

SECTION 11. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

SECTION 12. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption.

APPROVED AND ADOPTED this ____ day of _____, 2024.

STEVEN HERNANDEZ, Mayor

ATTEST:

ANGELA M. ZEPEDA, City Clerk

I, Angela M. Zepeda, City Clerk of the City of Coachella, California, do hereby certify that the whole number of the members of the City Council is five (5); that the above and foregoing Resolution was duly and regularly passed and adopted by at least four (4) affirmative votes of all members at a regular meeting of the City Council of the City of Coachella on the ____ day of _____, 2024, by the following vote:

AYES: Council Members:
NOES: Council Member:
ABSENT: Council Member:
ABSTAIN: Council Member:

ANGELA M. ZEPEDA, City Clerk

EXHIBIT "A"

ORDINANCE NO. 2024-1211

AN ORDINANCE OF THE PEOPLE OF THE CITY OF COACHELLA, CALIFORNIA, AMENDING CHAPTER 4.28 OF TITLE 4 (REVENUE AND FINANCE) OF THE COACHELLA MUNICIPAL CODE INCREASING THE MAXIMUM RATE OF THE CITY'S TRANSIENT OCCUPANCY (HOTEL) TAX FROM 9% TO 13%, ADDRESSING ONLINE TRAVEL COMPANY AND OTHER THIRD PARTY BOOKINGS AND MAKING OTHER CONFORMING CHANGES.

(NOTE: Additions are highlighted in ***bold italics*** and deletions are highlighted in ~~strikeout~~)

THE PEOPLE OF THE CITY OF COACHELLA DO ORDAIN AS FOLLOWS:

SECTION 1. Subject to the approval of a majority of the voters of the City of Coachella at the General Municipal Election so designated by the City Council in a separate resolution placing the proposal on the ballot for such election, Chapter 4.28 of Title 4 of the Coachella Municipal Code is hereby amended to read as follows:

"Chapter 4.28 – TRANSIENT OCCUPANCY TAX

4.28.010 - Title.

This chapter shall be known as the "Uniform Transient Occupancy Tax Ordinance of the City of Coachella."

4.28.020 - Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter:

"Hotel" means any structure or any portion of any structure including mobile home spaces or trailer spaces which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, ***single family residential home or house***, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structures or portion thereof.

"Occupancy" means the use or possession, or the right to use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.

"Operator" means the person who is the proprietor of a hotel, ***or any other person who has the right to rent rooms within the hotel to customers or to facilitate the rental of rooms***, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, ***seller, reseller***, or any other capacity. Where the operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purpose of this chapter and shall have the same duties and liabilities as his or her principal. ***Full*** ~~C~~compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

“Online Short Term Rental Company” shall mean any person, whether operating for profit or not for profit, which facilitates the connection between transients aiming to purchase occupancy in any hotel via the Internet, or by similar electronic means.

“Online Travel Company” shall mean any person, whether operating for profit or not for profit, which enables transients to purchase occupancy in a hotel via the Internet, or by similar electronic means.

"Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

"Rent" means the **total** consideration charged **to the transient, (including but not limited to, room rates, service charges, parking fees, purchase price, advance registration, block or group reservation charges, assessments, retail markup, commission, processing fees, cancellation charges, attrition fees, or online booking or broker fees),** whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever. **Nothing in this definition shall be construed to mean that rent is charged directly or indirectly for occupancy in a hotel when a room is provided to the transient as a compliment for the operator and where no consideration is charged to or received from any other person. Further, bona fide charges for food and beverages which are subject to tax under the California Sales and Use Tax Law (Revenue and Taxation Code Sections 6001 et. seq.) shall not be deemed rent subject to the tax imposed by this chapter.**

"Tax administrator" means the **City’s** director of finance **who shall be charged with administration of the tax under this chapter.**

"Transient" means any and all persons who exercise occupancy or are entitled to occupancy by reason of concession, permit, right of access, license or other agreement, for a period of ~~the first~~ thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. **The following rules shall apply to this definition:**

1. Any such person so occupying **or entitled to occupy** space in a hotel shall be deemed to be a transient until the period of thirty (30) **calendar** days has expired. **Any person who exercises or is entitled to occupancy for a period of thirty (30) consecutive calendar days or less shall be deemed to be a transient, regardless of whether the reservation and payment or payment for occupancy is made directly by the person exercising or entitled to occupancy or by another person or entity. The intent is to tax the person occupying or having the entitlement to occupy the hotel room.**
2. **In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this chapter may be considered.**
3. ~~The fact that a person continues to occupy the hotel subsequent to the thirty (30) day period does not alter his status as a transient for the first thirty (30) days.~~ **In the event a person exercises or is entitled to occupancy for a continuous and uninterrupted period of longer than thirty (30) calendar days, he or she shall be deemed a transient and subject to the tax for only for the first thirty**

(30) calendar days of occupancy. The person shall cease being a transient and the tax shall not apply to the thirty-first (31st) calendar day and each following calendar day of continuous and uninterrupted occupancy. However, any break or interruption in occupancy shall start a new thirty (30) calendar day period subject to the tax.

4.28.030 - Imposed—Payment.

A.—For the privilege of ***transient*** occupancy in any hotel, a transient is subject to and shall pay a ***maximum*** tax in the amount of ~~nine~~ ***thirteen*** percent of the rent charged ***paid*** by the operator ~~***transient***~~ for any period of time up to thirty (30) days, ~~save and except such occupancy is for a term longer than thirty (30) days.~~ Such tax constitutes a debt owed by the transient to the city, which is extinguished only by payment to the operator, ***a rental agent pursuant to Section 4.28.055 of this chapter,*** or to the city. The transient shall pay the tax to the operator ~~of the hotel~~ ***or rental agent*** at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax is not paid to the operator ~~of the hotel~~ ***or rental agent,*** the tax administrator may require that such tax be paid direct***ly*** to the tax administrator.

~~B. In the case of time sharing uses, the transient occupancy tax shall be computed by averaging the daily room rates for conventionally utilized transient living facilities of the same approximate size and within the same zone in the city as defined by the finance director and applying the tax rate under this chapter thereto. Upon computation of such daily average room rates, the taxes may be increased every year in an amount equivalent to the percentage increase in the Los Angeles Consumer Price Index and the applicable tax computed therefrom. The daily average room rate, as computed and adjusted in this section, shall also be collected for each day time sharing units are rented on a conventional basis.~~

4.28.040 - Exemptions.

No tax shall be imposed upon:

- A. Any person as to whom, or any occupancy as to which, it is beyond the power of the city to impose the tax provided in this section;
- B. Any federal or state of California officer or employee when ***occupying a room while*** on official business; and
- C. Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

No exemption shall be granted except upon a claim therefor made at the time rent is collected and under penalty of perjury upon a form prescribed by the tax administrator. ***Any officer or employee when on official government business claiming such an exemption shall provide to the operator or rental agent as conclusive evidence that his or her occupancy is for the official business of his or her employer:***

1. ***Travel orders from his or her government employer; or a government warrant issued by his or her employer to pay for the occupancy; or a government credit card issued by his or her employer to pay for the occupancy; and***

2. ***Proof of his or her governmental employment as an employee or officer, and proof, consistent with these provisions, that his or her occupancy is for the official business of his or her governmental employer.***

It shall be the duty of an operator or rental agent to keep and maintain for a period of three (3) years written documentation in support of each exemption granted under this Section.

4.28.050 - Operator's duties—Absorbing tax prohibited.

Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided.

4.28.055. Third Party Rental Transactions.

- A. ***Any transient who pays rent to an online short term rental company, an online travel company, or similar agent (collectively a “rental agent”) instead of to an operator shall, at the time the rent is paid, pay the tax to the rental agent in the manner required by section 4.28.030. If for any reason the tax is not paid to the rental agent, it shall be paid to the operator before the transient has ceased occupancy in the hotel or paid directly to the tax administrator pursuant to section 4.28.030. Any transient seeking a refund under section 4.28.120 of taxes paid to a rental agent must establish that the transient has been unable to obtain a refund from the rental agent who collected the tax.***
- B. ***Any rental agent who collects rent shall comply with all obligations of the operator set forth in sections 4.28.050 and 4.28.110 of this chapter. The rental agent shall remit all collected taxes to the operator before the deadline for the operator to remit the taxes to the tax administrator under section 4.28.070 and the rental agent shall provide the operator with copies of all records required to be maintained by the operator pursuant to section 4.28.110 of this chapter, including records necessary for the operator to comply with its obligations under this chapter.***
- C. ***If the tax administrator determines that a rental agent has failed to collect, remit, or report any tax, the tax administrator may take any action against the rental agent that he or she may take against an operator under sections 4.28.080 and 4.28.090 of this chapter subject to the requirements of those sections. If the tax administrator assesses unremitted taxes and penalties against the rental agent, the rental agent shall be subject to the provisions of sections 4.28.090, 4.28.100, 4.28.120 and 4.28.130 of this chapter as if it were an operator. Nothing in this section shall prohibit the tax administrator from assessing the full amount of any unremitted taxes and penalties solely against the operator in lieu of assessing some or all of those taxes and penalties against the rental agent.***

4.28.060 - Registration required—Certificate.

Within thirty (30) days after commencing business, each operator of any hotel renting occupancy to transients shall register the hotel with the ~~city clerk~~ **tax administrator** and obtain from him or her a "Transient Occupancy Registration Certificate" to be at all times posted in a conspicuous place on the premises. Such certificate shall, among other things, state the following:

- A. The name of the operator;
- B. The address of the hotel;
- C. The date upon which the certificate was issued;
- D. A statement that:

"This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance by registering with the tax administrator for the purpose of collecting from transients the transient occupancy tax and remitting said tax to the tax administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this city. This certificate does not constitute a permit."

4.28.070 - Reporting and remitting tax.

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the tax administrator, make a return to the tax administrator, on forms provided by him or her, of the total rents charged and received and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the ~~city clerk~~ **tax administrator**. The tax administrator may establish shorter reporting periods for any certificate holder if he or she deems it necessary in order to insure collection of the tax and he or she may further require information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the city until payment thereof is made to the tax administrator.

4.28.080 - Penalties and interest.

- A. Original Delinquency. Any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty of ten (10) percent of the amount of the tax in addition to the amount of the tax.
- B. Continued Delinquency. Any operator who fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquent penalty of ten (10) percent of the amount of the tax in addition to the amount of the tax and the ten (10) percent penalty first imposed.

- C. Fraud. If the tax administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five (25) percent of the amount of the tax is added thereto in addition to the penalties stated in subsections A and B of this section.
- D. Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent per month or a fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- E. Penalties Merged with Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax in this section required to be paid.

4.28.090 - Failure to collect and report tax—Determination of tax by tax administrator.

If any operator shall fail or refuse to collect such tax and to make, within the time provided in this chapter, any report and remittance of such tax or any portion thereof required by this chapter, the ~~city clerk~~ **tax administrator** shall proceed in such manner as he or she may deem best to obtain facts and information on which to base his or her estimate of the tax due. As soon as the ~~city clerk~~ **tax administrator** shall procure such facts and information as he or she is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he or she shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the ~~city clerk~~ **tax administrator** shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his or her last known place of address. Such operator may within ten (10) days after the serving or mailing of such notice make application in writing to the ~~city clerk~~ **tax administrator** for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the tax administrator shall become final and conclusive and immediately due and payable. If such application is made, the tax administrator shall give not less than five days' written notice in the manner prescribed in this chapter to the operator to show cause at a time and place fixed in such notice why the amount specified therein should not be fixed for such tax, interest and penalties. At such hearing the operator may appear and offer evidence why the specified tax, interest and penalties should not be so fixed. After such hearing the tax administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed in this chapter of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen (15) days unless an appeal is taken as provided in Section 4.28.100.

4.28.100 - Appeals.

Any operator aggrieved by any decision of the tax administrator with respect to the amount of such tax, interest and penalties, if any, may appeal **the decision** to the ~~council~~ **city manager** by filing a notice of appeal with the tax administrator within fifteen (15) days of the serving or mailing of the determination of tax due. The ~~council~~ **city manager** shall fix a time and place for hearing such appeal, and the tax administrator shall give notice in writing **by mail** to such operator at his or her last known place of address. The findings of the ~~council~~ **city manager** shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of

notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice ***the city manager's findings***.

4.28.110 - Records required—Right to inspect

It shall be the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve, for a period of three years, all such records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the city, which records the tax administrator shall have the right to inspect at all reasonable times.

4.28.120 - Refunds.

- A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the city under this chapter it may be refunded as provided in subsections B and C of this section. ~~provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the city clerk within three years of the date of payment. The claim shall be on forms furnished by the tax administrator.~~
- B. ~~An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the tax administrator that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.~~ ***No refund may be made except upon a written claim verified by the person who paid the tax, or by his or her guardian or conservator, or by the executor or administrator of his or her will or estate. The written claim must be presented to the tax administrator within one (1) year after the payment of the amount sought to be refunded, and must state the grounds upon which the claim is made. An operator may claim a refund or claim a credit against taxes collected but not yet remitted to the City of the amount overpaid, paid more than once, or erroneously or illegally collected. However, in the case of a tax erroneously or illegally collected by the Operator but not yet remitted to the City, no refund shall be allowed unless a written, verified claim has been submitted to the operator, in the form prescribed above, by the person who paid the tax, and the amount thereof has either been refunded by the operator to the person who paid the tax, or credited against rent subsequently payable by such person.***
- C. ~~A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the city by filing a claim in the manner provided in subsection A of this section, but only when the tax was paid by the transient directly to the tax administrator, or when the transient having paid the tax to the operator, establishes to the satisfaction of the tax administrator that the transient has been unable to obtain a refund from the operator who collected the tax.~~ ***No refund shall be paid under the provisions of this section unless a written claim for refund is presented according to this section. No suit for money, damages, or a refund may be brought against the City until a written claim for the refund has been presented to the City and has been acted upon or has been deemed to be rejected by the City, in accordance with this***

section. Only the person who filed the claim may bring such a suit, and if another person should do so, judgment shall not be rendered for the plaintiff. .

- D. No refund shall be paid under the provisions of this section unless the claimant establishes his or her right thereto by written records showing entitlement thereto.

4.28.130 - Actions to collect.

Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the transient to the city. Any such tax collected by an operator which has not been paid to the city shall be deemed a debt owed by the operator to the city. Any person owing money to the city under the provisions of this chapter shall be liable to an action brought in the name of the city for the recovery of such amount.

4.28.140 – Additional Powers and Duties of the Tax Administrator.

- A. ***The tax administrator shall have the power and duty, and is hereby directed to enforce each and all provisions of this chapter.***
- B. ***The tax administrator shall have the power to adopt rules and regulations not inconsistent with the provisions of this chapter for the purpose of carrying out and enforcing the payment, collection and remittance of the taxes herein imposed. A copy of such rules and regulations shall be on file in the tax administrator’s office.***
- C. ***The tax administrator shall review all claims for exemption and shall determine the eligibility of any such claim.***

4.28.150 – Repeal of Amendment of Chapter.

This chapter may be repealed or amended by the city council without a vote of the people of the City of Coachella. However, as required by California Constitution Article XIII C (Proposition 218), voter approval is required for any amendment or provision that would increase the maximum rate or methodology of any tax levied pursuant to this chapter. The people of the City of Coachella affirm that the following actions shall not constitute an increase of the rate or methodology of the transient occupancy tax requiring subsequent voter approval:

- A. ***The restoration of the rate of the tax to a rate that is no higher than the maximum set by this voter-approved chapter, if the city council has previously acted to reduce the rate of the tax;***
- B. ***An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this chapter;***
- C. ***The establishment of a class of person or service that is exempt or excepted from the tax or the discontinuation of any such exemption or exception (other than the discontinuation of an exemption or exception explicitly set forth in this chapter); and***

D. Resuming collection of the tax imposed by this chapter, even if the City had, for some period of time, either suspended collection of the tax or otherwise failed to collect the tax, in whole or in part.

4.28.140160 - Violations.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punishable therefor as provided by Section 1.08.010.

Any operator or other person who fails or refuses to register as required in this chapter, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the city clerk, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor, and is punishable as aforesaid. Any person required to make, render, sign or verify any report or claim, or who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this chapter to be made, is guilty of a misdemeanor and is punishable as aforesaid."

SECTION 2. If any portion of this ordinance is declared invalid by a court of law or other legal body with applicable authority, the invalidity shall not affect or prohibit the force and effect of any other provision or application of the ordinance that is not deemed invalid. The voters of the City hereby declare that they would have circulated for qualification and/or voted for the adoption of this Section, and each portion thereof, regardless of the fact that any portion of the initiative may be subsequently deemed invalid.

SECTION 3. Pursuant to California Constitution Article XIIC §(2)(b) and California Elections Code §9217, this ordinance shall take effect only if approved by a majority of the eligible voters of the City of Coachella voting at the General Municipal Election to be held on November 5, 2024. The new maximum taxing rate shall go into effect January 1, 2025.

SECTION 4. The Mayor is hereby authorized to attest to the adoption of this Ordinance by the People voting thereon on November 5, 2024, by signing where indicated below.

I hereby certify that the foregoing Ordinance was **PASSED, APPROVED AND ADOPTED** by the People of the City of Coachella on the 5th day of November, 2024.

Dated: _____

STEVEN HERNANDEZ
MAYOR

ATTEST:

APPROVED AS TO FORM:

ANGELA M. ZEPEDA
City Clerk

CARLOS CAMPOS
City Attorney