

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."

(Prior code § 22-54)

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, 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, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, 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. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

"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 consideration charged, 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.

"Tax administrator" means the director of finance.

"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. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty (30) days has expired. 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.

(Prior code § 22-55)

4.28.030 - Imposed—Payment.

- A. For the privilege of occupancy in any hotel, a transient is subject to and shall pay a tax in the amount of nine percent of the rent charged by the operator 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 or to the city. The transient shall pay the tax to the operator of the hotel 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, the tax administrator may require that such tax be paid direct 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.

(Prior code § 22-56)

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 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.

(Prior code § 22-57)

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.

(Prior code § 22-58)

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 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."

(Prior code § 22-59)

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. 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.

(Prior code § 22-60)

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.

(Prior code § 22-61)

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 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 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 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 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.

(Prior code § 22-62)

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 to the council 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 shall fix a time and place for hearing such appeal, and the tax administrator shall give notice in writing to such operator at his or her last known place of

address. The findings of the council 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.

(Prior code § 22-63)

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.

(Prior code § 22-64)

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.
- 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.
- 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.

(Prior code § 22-65)

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.

(Prior code § 22-66)

4.28.140 - 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.

(Prior code § 22-67)

1 (e) Rent. "Rent" means the consideration charged, whether or not
2 received, for the occupancy of space in a hotel valued in money, whether to be
3 received in money, goods, labor or otherwise, including all receipts, cash,
4 credits and property and services of any kind or nature, without any deduction
5 therefrom whatsoever.

6 (f) Operator. "Operator" means the person who is proprietor of the
7 hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in
8 possession, licensee, or any other capacity. Where the operator performs his
9 functions through a managing agent of any type or character other than an em-
10 ployee, the managing agent shall also be deemed an operator for the purpose of
11 this ordinance and shall have the same duties and liabilities as his principal.
12 Compliance with the provisions of this ordinance by either the principal or the
13 managing agent shall, however, be considered to be compliance by both.

14 (g) Tax Administrator. "Tax Administrator" means the City Clerk.

15 SECTION 3. Tax Imposed. For the privilege of occupancy in any
16 hotel, each transient is subject to and shall pay a tax in the amount of four per
17 cent (4%) of the rent charged by the operator. Said tax constitutes a debt owed
18 by the transient to the city which is extinguished only by payment to the operator
19 or to the city. The transient shall pay the tax to the operator of the hotel at
20 the time the rent is paid. If the rent is paid in installments, a proportionate
21 share of the tax shall be paid with each installment. The unpaid tax shall be due
22 upon the transient's ceasing to occupy space in the hotel. If for any reason the
23 tax due is not paid to the operator of the hotel, the City Clerk may require that
24 such tax shall be paid directly to the City Clerk.

25 SECTION 4. Exemptions. No tax shall be imposed upon:

26 (a) Any person as to whom, or any occupancy as to which, it is beyond
27 the power of the city to impose the tax herein provided;

28 (b) Any federal or State of California officer or employee when on
29 official business;

30 (c) Any person or occupancy who is a member of the armed forces of the United States or the armed forces of any other country and who is on active duty.

1 by the City Clerk.

2 SECTION 5. Operator's Duties. Each operator shall collect the tax
3 imposed by this ordinance to the same extent and at the same time as the rent
4 is collected from every transient. The amount of tax shall be separately stated
5 from the amount of the rent charged, and each transient shall receive a receipt
6 for payment from the operator. No operator of a hotel shall advertise or state
7 in any manner, whether directly or indirectly, that the tax or any part thereof
8 will be assumed or absorbed by the operator, or that it will not be added to the
9 rent, or that, if added, any part will be refunded except in the manner herein-
10 after provided.

11 SECTION 6. Registration. Within thirty (30) days after the effective
12 date of this ordinance, or within thirty (30) days after commencing business,
13 whichever is later, each operator of any hotel renting occupancy to transients
14 shall register said hotel with the City Clerk and obtain from him a "Transient
15 Occupancy Registration Certificate" to be at all times posted in a conspicuous
16 place on the premises. Said certificate shall, among other things, state the
17 following:

18 (1) The name of the operator;

19 (2) The address of the hotel;

20 (3) The date upon which the certificate was issued;

21 (4) "This Transient Occupancy Registration Certificate signifies that
22 the person named on the face hereof has fulfilled the requirements of the Uniform
23 Transient Occupancy Tax Ordinance by registering with the City Clerk for the
24 purpose of collecting from transients the Transient Occupancy Tax and remitting
25 said tax to the City Clerk. This certificate does not authorize any person to
26 conduct any unlawful business or to conduct any lawful business in an unlawful
27 manner, nor to operate a hotel without strictly complying with all local appli-
28 cable laws, including but not limited to those requiring a permit from any board,
29 commission, department or office of this city. This certificate does not con-
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1 or at the close of any shorter reporting period which may be established by the
2 City Clerk, make a return to the City Clerk, on forms provided by him, of the
3 total rents charged and received and the amount of tax collected for transient
4 occupancies. At the time the return is filed, the full amount of the tax collected
5 shall be remitted to the City Clerk. The City Clerk may establish shorter
6 reporting periods for any certificate holder if he deems it necessary in order to
7 insure collection of the tax and he may further require information in the return.
8 Returns and payments are due immediately upon cessation of business for any
9 reason. All taxes collected by operators pursuant to this ordinance shall be
10 held in trust for the account of the city until payment thereof is made to the City
11 Clerk.

12 SECTION 8. Penalties and Interest.

13 (a) Original Delinquency. Any operator who fails to remit any tax
14 imposed by this ordinance within the time required shall pay a penalty of 10% of
15 the amount of the tax in addition to the amount of the tax.

16 (b) Continued Delinquency. Any operator who fails to remit any delinquent
17 remittance on or before a period of thirty (30) days following the date on which
18 the remittance first became delinquent shall pay a second delinquency penalty
19 of 10% of the amount of the tax in addition to the amount of the tax and the 10%
20 penalty first imposed.

21 (c) Fraud. If the City Clerk determines that the non-payment of any
22 remittance due under this ordinance is due to fraud, a penalty of 25% of the amount
23 of the tax shall be added thereto in addition to the penalties stated in subpara-
24 graphs (a) and (b) of this section.

25 (d) Interest. In addition to the penalties imposed, any operator who
26 fails to remit any tax imposed by this ordinance shall pay interest at the rate of
27 one-half of 1% per month or fraction thereof on the amount of the tax, exclusive
28 of penalties, from the date on which the remittance first became delinquent until
29 paid.

1 SECTION 9. Failure to Collect and Report Tax. Determination of Tax
2 by City Clerk. If any operator shall fail or refuse to collect said tax and to
3 make, within the time provided in this ordinance, any report and remittance
4 of said tax or any portion thereof required by this ordinance, the City Clerk
5 shall proceed in such manner as he may deem best to obtain facts and informa-
6 tion on which to base his estimate of the tax due. As soon as the City Clerk
7 shall procure such facts and information as he is able to obtain upon which to
8 base the assessment of any tax imposed by this ordinance and payable by any
9 operator who has failed or refused to collect the same and to make such report
10 and remittance, he shall proceed to determine and assess against such operator
11 the tax, interest and penalties provided for by this ordinance. In case such
12 determination is made, the City Clerk shall give a notice of the amount so
13 assessed by serving it personally or by depositing it in the United States mail,
14 postage prepaid, addressed to the operator so assessed at his last known place
15 of address. Such operator may within ten (10) days after the serving or mailing
16 of such notice make application in writing to the City Clerk for a hearing on the
17 amount assessed. If application by the operator for a hearing is not made with-
18 in the time prescribed, the tax, interest and penalties, if any, determined by
19 the City Clerk shall become final and conclusive and immediately due and
20 payable. If such application is made, the City Clerk shall give not less than
21 five (5) days written notice in the manner prescribed herein to the operator to
22 show cause at a time and place fixed in said notice why said amount specified
23 therein should not be fixed for such tax, interest and penalties. At such hearing
24 the operator may appear and offer evidence why such specified tax, interest
25 and penalties should not be so fixed. After such hearing the City Clerk shall
26 determine the proper tax to be remitted and shall thereafter give written notice
27 to the person in the manner prescribed herein of such determination and the
28 amount of such tax, interest and penalties. The amount determined to be due
29 shall be payable after fifteen (15) days unless an appeal is taken as provided in
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1 may appeal to the Council by filing a notice of appeal with the City Clerk
2 within fifteen (15) days of the serving or mailing of the determination of tax due.
3 The Council shall fix a time and place for hearing such appeal, and the City
4 Clerk shall give notice in writing to such operator at his last known place of
5 address. The findings of the Council shall be final and conclusive and shall be
6 served upon the appellant in the manner prescribed above for service of notice
7 of hearing. Any amount found to be due shall be immediately due and payable
8 upon the service of notice.

9 SECTION 11. Records. It shall be the duty of every operator liable for
10 the collection and payment to the city of any tax imposed by this ordinance to
11 keep and preserve, for a period of three years, all records as may be necessary
12 to determine the amount of such tax as he may have been liable for the collection
13 of and payment to the city, which records the City Clerk shall have the right to
14 inspect at all reasonable times.

15 SECTION 12. Refunds.

16 (a) Whenever the amount of any tax, interest or penalty has been over-
17 paid or paid more than once or has been erroneously or illegally collected or
18 received by the city under this ordinance it may be refunded as provided in
19 subparagraphs (b) and (c) of this section provided a claim in writing therefor,
20 stating under penalty of perjury the specific grounds upon which the claim is
21 founded, is filed with the City Clerk within three years of the date of payment.
22 The claim shall be on forms furnished by the City Clerk.

23 (b) An operator may claim a refund or take as credit against taxes
24 collected and remitted the amount overpaid, paid more than once or erroneously
25 or illegally collected or received when it is established in a manner prescribed
26 by the City Clerk that the person from whom the tax has been collected was not
27 a transient; provided, however, that neither a refund nor a credit shall be
28 allowed unless the amount of the tax so collected has either been refunded to
29 the transient or credited to rent subsequently payable by the transient to the
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1 transient having paid the tax to the operator, establishes to the satisfaction of
2 the City Clerk that the transient has been unable to obtain a refund from the
3 operator who collected the tax.

4 (d) No refund shall be paid under the provisions of this section unless
5 the claimant establishes his right thereto by written records showing entitle-
6 ment thereto.

7 SECTION 13. Actions to Collect. Any tax required to be paid by any
8 transient under the provisions of this ordinance shall be deemed a debt owed
9 by the transient to the city. Any such tax collected by an operator which has
10 not been paid to the city shall be deemed a debt owed by the operator to the city.
11 Any person owing money to the city under the provisions of this ordinance shall
12 be liable to an action brought in the name of the City of Coachella for the re-
13 covery of such amount.

14 SECTION 14. Violations; Misdemeanor. Any person violating any of the
15 provisions of this ordinance shall be guilty of a misdemeanor and shall be
16 punishable therefor by a fine of not more than five hundred dollars (\$500.00)
17 or by imprisonment in the city jail for a period of not more than six months or
18 by both such fine and imprisonment.

19 Any operator or other person who fails or refuses to register as re-
20 quired herein, or to furnish any return required to be made, or who fails or
21 refuses to furnish a supplemental return or other data required by the City
22 Clerk, or who renders a false or fraudulent return or claim, is guilty of a
23 misdemeanor, and is punishable as aforesaid. Any person required to make,
24 render, sign or verify any report or claim, who makes any false or fraudulent
25 report or claim with intent to defeat or evade the determination of any amount
26 due required by this ordinance to be made, is guilty of a misdemeanor and is
27 punishable as aforesaid.

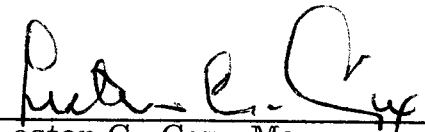
28 SECTION 15. Severability. If any section, subsection, subdivision,
29 paragraph, sentence, clause or phrase of this ordinance or any part thereof is
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1 subdivision, paragraph, sentence, clause or phrase thereof, irrespective
2 of the fact that any one or more sections, subsections, subdivisions, para-
3 graphs, sentences, clauses or phrases be declared unconstitutional.

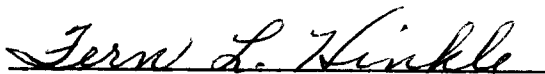
4 SECTION 16,. Effective Date. This ordinance, inasmuch as it pro-
5 vides for a tax levy for the usual and current expenses of the city shall take
6 effect immediately, except that the tax imposed by this ordinance shall become
7 operative and be imposed on January 1, _____ 1965, and shall not apply prior
8 to said date.

9 SECTION 17. The City Clerk is hereby ordered and directed to certify
10 to the passage of this ordinance and to cause the same to be published once in
11 the Coachella Valley Sun, a newspaper of general circulation, printed, pub-
12 lished and circulated in the City of Coachella.

13
14 Attest:



Lester C. Cox, Mayor

15 
16 _____
City Clerk

17
18 I, the undersigned, City Clerk of the City of Coachella, California,
19 hereby certify that the foregoing ordinance, being Ordinance No. 206 of the
20 City of Coachella, California, was read in full at a regular meeting of the City
21 Council held on October 6, 1964, and was passed at said meeting by
22 the following votes:

23 AYES: Mayor Cox, Councilmen Pillow and Widmar

24 NOES: None

25 ABSENT: Councilmen Saiz and Duke

26 I further certify that said ordinance was thereupon signed by LESTER
27 C. COX, Mayor of the City of Coachella, and was published once in the
28 Coachella Valley Sun, a newspaper of general circulation, printed, published,
29 and circulated in the City of Coachella.