

RESOLUTION NO. 1240

A RESOLUTION OF NECESSITY TO FILE A SMALL CLAIMS ACTION AGAINST DEEP LLC-LUXURY INN & SUITES, LOCATED AT 1401 N. ELM PLACE, BROKEN ARROW, OK 74012 FOR FAILURE TO REPORT AND PAY HOTEL OCCUPANCY TAX OWING FOR THE PERION OF DECEMBER 2016 THROUGH MARCH 2019

WHEREAS, pursuant to Broken Arrow Code Sec 22-112, there is a levied an excise tax of four percent upon the gross proceeds or gross receipts derived from all rent for every occupancy of a room or rooms in a hotel in this city, except that the tax shall not be imposed where the rent is less than the rate of \$5.00 per day; and

WHEREAS, pursuant to Broken Arrow Code Sec 22-115, the hotel operator is responsible for tax collections. The operator shall be responsible for the collection of the tax from the occupant and shall be liable to the City for the tax which shall be held in trust by the operator until paid to the city; and

WHEREAS, pursuant to Broken Arrow Code 22-115(c)(1), every operator shall file with the city manager a report of occupancy and of rents, and of the taxes payable thereon for the period ending on the last day of each month following the effective date of this article. Such return shall be filed within the first 15 days after the end of each such month; and

WHEREAS, Deep LLC- Luxury Inn & Suites has been collecting said four (4%) tax from its renters; and

WHEREAS, for the period of time from December 2016 until April 2018 and September 2018 until March 2019 has failed to pay such tax and has failed to file reports for July 2017, December 2017, September 2018, November 2018, December 2018, January 2019, February 2019 and March 2019 which is required to be reported within 15 days of the end of the month being reported according to Broken Arrow Code Sec. 22-115 (c)(1); and

WHEREAS, for the period of December 2016 until March 2019 Deep LLC-Luxury Inn & Suites has failed to pay approximately \$9,670.40 in taxes owed to the City; and

WHEREAS, Broken Arrow Code Sec. 22-126(d), provides that the City Manager may also authorize the city attorney to institute an action in personam and in rem to enforce payment and collect any delinquent lodging taxes, penalties and/or interest; and

WHEREAS, in order to meet the statutory restrictions, the Legal Department recommends that the Council authorize initiation of a Small Claims Action for the months of December 2016 through March 2019, in the sum of \$9,670.40.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Broken Arrow, Oklahoma that the filing of a Small Claims action against Deep LLC- Luxury Inn and Suites is a necessary action for recovery of hotel occupancy taxes owed to the City.

NOW THEREFORE, BE IT FURTHER RESOLVED that the City Attorney is authorized to initiate a lawsuit to recover hotel occupancy taxes owed to the City.

This Resolution is approved in open meeting by the City Council of the City of Broken Arrow on this 17th Day of June 2019.

Mayor

Attest:

City Clerk

Approved as to form:



Assistant City Attorney

DEEP LLC
DBA Luxury Inn & Suites
1401 N Elm PL
Broken Arrow, OK 74102

<u>Period</u>	<u>Year</u>	<u>Due Date</u>	<u>Date Paid</u>	<u>Report Date</u>	<u>Est</u>	<u>Amount</u>
December	2016	01/15/17		07/13/18		526.20
January	2017	02/15/17		07/13/18		506.60
February	2017	03/15/17		07/13/18		557.00
March	2017	04/15/17		07/13/18		549.96
April	2017	05/15/17		07/13/18		542.48
May	2017	06/15/17		07/13/18		486.68
June	2017	07/15/17		07/13/18		509.56
July	2017	08/15/17			*	477.13
August	2017	09/15/17		07/13/18		435.16
Sept	2017	10/15/17		07/13/18		399.72
Oct	2017	11/15/17		07/13/18		331.64
Nov	2017	12/15/17		07/13/18		135.76
December	2017	01/15/18			*	201.55
January	2018	02/15/18		07/13/18		137.24
February	2018	03/15/18		07/13/18		277.88
March	2018	04/15/18		07/13/18		276.24
April	2018	05/15/18		07/13/18		282.48
May	2018	06/15/18		07/13/18		308.00
June	2018	07/15/18				-
July	2018	08/15/18				-
August	2018	09/15/18				-
Sept	2018	10/15/18			*	444.41
Oct	2018	11/15/18	04/08/19			169.53
Nov	2018	12/15/18			*	412.24
December	2018	01/15/19			*	413.48
January	2019	02/15/19			*	411.15
February	2019	03/15/19			*	425.92
March	2019	04/15/19			*	452.39
						<u>\$ 9,670.40</u>