

**CITY OF MARLIN  
POLICY AND PROCEDURES  
HOTEL OCCUPANCY TAX USE POLICY**

**I. Objective**

The purpose of the policy is to provide guidelines relating to the use of Hotel Occupancy Taxes collected in accordance with Chapter 351 of the Texas Tax Code. The policy shall be adopted by the City Council and will be amended as needed.

**II. Scope**

This policy further outlines the use of hotel occupancy tax revenue to promote tourism and the convention and hotel industry. The Hotel Occupancy Tax Policy is only intended to provide further clarification and guidance on use of collected Hotel Occupancy Tax revenues. State law shall prevail. Any changes to Chapter 351 of the State of Texas Tax Code shall supersede the City Policy.

**III. Definitions**

“Disbursement” - Disbursement is defined as payment to any “organization” for reimbursement of approved expenses in accordance with the City policy and state law.

“Fiscal Year” - The fiscal year shall mean the period between October 1 and September 30 of each year.

“Hotel Occupancy Tax” - The City levies a tax upon the occupant of any room or space furnished by any hotel where such costs of occupancy is at the rate of two dollars (\$2.00) or more per day, such tax to be equal to seven (7) percent of the consideration paid by the occupant of such room, space or facility to such hotel, exclusive of other occupancy taxes imposed by other governmental agencies.

“Municipality” - Municipality shall mean the City of Marlin.

“Visitor Information Center” – means a building or portion of a building used to disseminate or distribute information to tourists.

“Organization” - Organization shall mean any person, governmental entity, or private organization requesting use of Hotel Occupancy Tax Revenues.

“Revenues” - Shall be defined as Hotel Occupancy Tax revenues.

**IV. Hotel Occupancy Tax Use Policy**

The following are permitted uses of Hotel Occupancy Tax revenues, in accordance with Chapter 351 of the Texas Tax Code Section 351.101(a) and this policy. There will be a two part test for every expenditure of Hotel Occupancy Tax revenues. The expenditure must meet both parts of the test to be valid.

**A. Criteria #1 :** Every expenditure must directly enhance and promote tourism and the convention and hotel industry.

(1) Under the Tax Code, every event, program, or facility funded with hotel occupancy tax revenues must directly promote tourism and directly promote the convention and tourism industry.

(2) If the funded event or facility is not reasonably likely to directly enhance tourism and the hotel and convention industry, **Hotel Occupancy Tax revenues cannot legally fund it.**

B. Criteria #2: Each expenditure of the hotel occupancy tax must fit meet one of nine statutorily provided categories for the expenditure of hotel occupancy tax revenues.

(1) The acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information. The City of Marlin is responsible for the operation of the Visitor Information Center and as such, may contract the operation to any qualified entity. If the operation is contracted out, no more than 25% of the gross hotel occupancy tax revenues maybe used for this purpose. If the City of Marlin operates the Visitor Information Center, the employee will be hired and supervised by the City Manager.

(2) The furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants.

(3) Advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity. At least 1/7 of the hotel occupancy tax revenue must be spent advertising and promoting the city to attract tourists and hotel and convention activity.

(4) Promotion of the Arts

The encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms. This category is limited to 15% maximum expenditure on promotion of the arts.

(5) Historical Restoration and Museums

Revenues may be used for historical restoration and preservation projects or activities advertising and conducting solicitations and promotional programs to encourage tourists to visit preserved historic sites or museums located within the municipality. If the City of Marlin does not allocate any hotel occupancy tax revenue for a convention center, the State Tax Code prohibits the city from allocating more than 50% of hotel occupancy tax revenue for historical restoration or preservation projects.

(6) Sporting Event Promotion

Revenues may be used for promotion of sporting events in which the majority of participants are tourists who substantially increase economic activity at hotels and motels within the municipality or its vicinity.

(7) Signage

Hotel Tax revenues may be used to construct signage directing the public to sights and attractions that are visited frequently by hotel guests in the municipality.

(8) Funding Transportation Systems for Tourists

V. Procedures

A. Eligibility

(1) Any organization, non-profit, or entity may apply for funding.

(2) The applicant must be located in the City's corporate limits, extra-territorial jurisdiction, or in sufficiently close proximity as to reasonably attract tourists to the City.

(3) The applicant must demonstrate that the funds will be used to promote the tourism, convention and hotel industry for the City of Marlin.

(4) The applicant must be an organization or corporation governed by a board of directors or a business applying for a public project to support tourism efforts within the City

(5) The applicant must be a legal entity with legal capacity to enter into contracts.

(6) The applicant must demonstrate that the programs and/or events are open and appropriate for the general public.

(7) The applicant must demonstrate that they are in good financial standing and that financial safe guards are in place to protect public funds.

B. Use of Funds

Organizations must use granted Hotel Occupancy Tax revenues in accordance with this policy and Chapter 351 of the Tax Code. Applicants must demonstrate that the disbursement will directly enhance and promote tourism by attracting visitors from outside of Marlin into the City or its vicinity. The applicant must present reasonable evidence that the request will increase overnight stays in Marlin. Any funded applicant must notify overnight lodging establishments of the upcoming event. Any promotional material must reference Marlin lodging establishments.

**The use of Hotel Occupancy Tax revenues is to assist and support qualified events or activities, not be the major funds provider for the event or activity.**

### C. Application Process

The City of Marlin will accept applications for funding consideration four times annually, the first business day of October, January, April and July. Applications will be considered by the Application Review Board/City Council and funding approved/disapproved within 90 days of receipt. The applicant may be requested to present the funding request to the Application Review Board/City Council. Priority will be given to those events and entities based upon documented ability to directly promote visitors and the convention and hotel industry in Marlin by being likely to cause increased hotel or convention activity.” Such activity may result from hotel or convention guests that are already in town and choose to attend the funded event or facility, or it may result from individuals coming from another city or county to stay in an area lodging to attend the funded event or facility. Applicants should document the potential to generate increased hotel or convention activity by:

- (a) providing historical information on the number of room nights used during previous years of the same event/activity/facility;
- (b) providing current information on the size of room blocks reserved at area hotels to accommodate anticipated overnight guests attending the funded event/activity/facility;
- (c) providing historical information on the number of guests at hotels or other lodging facilities that attended the funded event/activity/facility; and/or
- (d) providing examples of marketing of programs and activities likely to generate or encourage overnight visitors to local lodging properties.
- (e) All Applicants are encouraged to patronize local businesses for food, supplies, materials, and the like.

### D. Financial Information

To be eligible to receive funds, organizations must demonstrate that they are in good financial standing and that they will act as responsible stewards of public funds.

- (1) Organizations must include their most recent audited financial statements with the application, unless they are a newly formed organization.
- (2) Organizations must also demonstrate that it maintains internal financial controls that will allow for proper tracking, accounting, and reporting of Hotel Occupancy Tax revenues and related expenditures. The organization must include a copy of their financial policies with the application.
- (3) Organizations must keep Hotel Occupancy Tax revenues in a separate account so that revenues may not commingle with any other money, as defined in Section 351.007(b) of the State of Texas Tax Code.

(4) For events funded through Hotel Occupancy Tax revenues, organizations must provide proof of insurance. The organization must forward Certificates of Insurance to the City prior to the event. Disbursements may be withheld if the organization fails to provide. The insurance required shall be procured and maintained in full force and effect for the duration of the Contract by the event sponsor. The City of Marlin will be an additional named insurer and a certificate of insurance shall be furnished to the City of Marlin. At the request of the Organization, the City Council may waive this requirement when the agreement is considered.

#### E. Audit

The City of Marlin may, at any time, inspect the books or records of the organization that may related to the use of Hotel Occupancy Tax revenues. The City, at its sole expense, has a right to audit any report or document submitted by the organization to the City by giving thirty (30) days prior written notice to the organization of its intention to do so.

#### F. Evaluation of Applications

(1) Review of eligibility - Once an application is received, the City Manager will review the application to ensure that all information has been submitted and that the application is complete. Any deficiencies to the application will be grounds for rejection. No application will be presented for Application Review Board/City Council consideration if deficiencies are present. Applications under \$1000.00 may be approved by the City Manager.

(2) Application Review Screening Board – The Mayor, City Manager, two mayor appointed council members, and two city council approved citizens will serve as an application review screening board. Once applications have been screened, qualified applications will be sent to the City Council for approval/disapproval.

Council Review – The City Council has final approval authority. The organization may be requested to be present during Council consideration to provide more information and/or clarification. The City Council may only award funds for uses that comply with Chapter 351 of the Texas Tax Code and this policy. Sufficient funds must be available before the Council may award funding.

(a) Conflict of Interest - Any City Councilmember shall excuse themselves from voting on a funding request for an organization with which they are affiliated.

(b) Evaluation Criteria - The City Council will use the following criteria to evaluate requests:

- 1) Visitor Appeal (Heads in Beds)
- 2) Program Quality
- 3) Others as defined by the City Council

(3) Funding Contract - If funding is awarded, the City Council will authorize a funding contract with the organization. The organization must return two signed original funding contract documents to the City prior to the event.

Failure to return the executed agreements shall be deemed a rejection of the offer for funding by the City Council and the offer shall be deemed withdrawn.

#### G. Reporting

Funded organizations will be required to submit a report detailing the use of Hotel Occupancy Tax revenues. Copies of receipts shall be provided for expenses to be reimbursed using Hotel Occupancy Tax revenues. Only expenses that meet Chapter 351 of the Tax Code and this policy shall be reimbursed. The City shall not make reimbursements for expenses where no receipt or invoice is provided. Organization's provided funding for a one-time expense or event will be required to submit a report within thirty (30) days of the event. Reimbursements may be issued within forty-five (45) days of receiving the complete report. Partial or incomplete reports will not be accepted. Organization's that are provided funding for ongoing promotion and multiple events will be required to submit a report each quarter. Hotel Occupancy Tax Reports should provide information on the event including total revenues, total expenses, estimated number of attendees versus expected, financial impact of the event, etc. Reports shall be in a form that is acceptable to the City Manager. The City of Marlin, Texas is under no obligation to allocate any portion of collected Hotel Occupancy Tax revenues unless the City enters into a funding contract. The adoption of this policy shall at no time be deemed to create any expectation that funds will be allocated to any one or more of the applicants. Award of funds does not guarantee future funding. The City may enter into other agreements above and beyond this policy in pursuit of economic development at the City Council's discretion. The City Council shall have the final decision regarding the allocation of funds pursuant to this policy.

## FUNDING CONSIDERATIONS CHECKLIST

Name of Event/Activity/Facility: \_\_\_\_\_

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If applicable, date of Event/Activity: \_\_\_\_\_

Yes  No Does your event/activity/facility pass Part One of the statutory test, defined specifically as directly enhancing and promoting visitors in the City of Marlin AND directly enhancing and promoting the convention and hotel industry in Marlin?

Yes  No Does your event/activity/facility pass Part Two of the statutory test, defined specifically as fitting into one or more of the following categories?

**Please check which category or categories:**

Convention center facilities or visitor information centers

Facilities, personnel and materials for registration of convention delegates

Advertising, and conducting solicitations and promotional programs to attract tourists and convention delegates

Promotion of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording

Historical restoration and preservation projects or activities, or advertising and conducting solicitations and promotional programs to encourage tourists to visit preserved historic sites or museums in the area

Sporting event expenses, including promotion expenses, related to sporting events at which the majority of participants are tourists who substantially increase economic activity at hotels in the area

Yes  No Is your application filled out thoroughly and completely, and are all required pages attached?

Yes  No If applicable, have you submitted the Post-Funding Analysis and proofs of payment for last year's event/activity/facility?

Yes  No If applicable, have you returned or repaid the City for any previous funds not used or not used lawfully?

Yes  No Have you documented how you will accurately track out-of-town guests, showing that your event will attract tourists that will directly support visitors and the hotel and convention industry in the area?

Yes  No

Is your request for fifty percent (50) or less of your total projected gross revenue from the event/activity/facility?

Yes  No

If you are applying under the Advertising category, is your request for fifty percent (50) or less of your total projected advertising expenditures?

Yes  No

Is your request no more than a one-to-one match for your event/activity/facility and does your application list anticipated matching funds?

Yes  No

If you are applying under the Advertising category, have you met the local requirement that advertising must be accomplished *in advance* of the event/activity/facility, and must utilize legitimate media for promotion outside of the area, i.e. direct mail, newspapers, magazines, radio, television, billboards?

(RETURN PAGES WITH APPLICATION PACKET)