

City of Port Aransas  
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## HOTEL OCCUPANCY TAX GRANT POLICY

### Purpose

The City of Port Aransas has adopted this Hotel Occupancy Tax (HOT) Grant Policy in order to provide uniform guidelines for event organizers, producers, promoters and sponsors (collectively referred to as “Organizers”) to request assistance for marketing, promoting or producing a program, event, or facility.

This policy will be provided to all organizers requesting funding assistance from the City of Port Aransas. **It is the intention of this policy to attract events, programs, or facilities that are or will become financially self-supporting and not require annual funding assistance.**

### Requests for Assistance

The Hotel Occupancy Tax Advisory Board is authorized to provide support for events, programs, or facilities, and applicants may apply for direct support of marketing and promotional expenses. The Hotel Occupancy Tax Advisory Board (HOTAB) reviews applications for completeness and to ensure that expenditures will **directly** promote and enhance the City of Port Aransas tourism and its lodging industry. In all cases, the HOTAB shall annually retain **20%** of the hotel tax-funding award that will be paid upon submission of the post event report and satisfactory performance.

The City of Port Aransas accepts applications March 1<sup>st</sup> through March 31<sup>st</sup> of each fiscal year. Applications will not be accepted before March 1<sup>st</sup>, and applications will not be accepted after March 31<sup>st</sup> of each fiscal year. Submit applications to the Office of the Assistant City Manager, Lawrence Cutrone, at City Hall or email to: [lcutrone@cityofportaransas.org](mailto:lcutrone@cityofportaransas.org)

The HOTAB will then schedule a meeting to review applications anytime starting April 1<sup>st</sup> through June 15<sup>th</sup>. The applicant will be notified of the meeting’s date and time ahead of the meeting. Next, HOTAB recommended applications will be presented to the Port Aransas City Council for final consideration for funding at the annual City Council Budget Workshop meetings. The City of Port Aransas has a schedule of meetings with more information listed on its website under the Government tab and the Agendas and Minutes subsection tab.

All applications submitted by the deadline with eligible, reimbursable expenses will be reviewed for evaluation. Applicants are asked to be available to the HOTAB when their application is reviewed to present their applications and answer any questions or to give additional information regarding their application. Funding and retainage for approved applicants will not be imbursement before the first Friday of October.

## STATE LAW

By law of the State of Texas, the City of Port Aransas collects a Hotel Occupancy Tax (HOT) from hotels, motels, condominiums, and short-term rentals. Under state law, the revenue from the HOT may be used only to **directly promote the tourism and/or the hotel and convention industry.**

“Tourism” is defined under Texas law as guiding or managing individuals who are traveling to a different city, county, state or country. A ‘direct’ promotion of the convention and hotel industry has been consistently interpreted by the Texas Attorney General as a program, event, or facility likely to cause increased hotel or convention activity. If the funded event, program, or facility is not reasonably likely to directly enhance tourism and the hotel and convention industry, local hotel occupancy tax revenues cannot legally fund it.

First, in the two step process every funded project must attract overnight tourists to the City of Port Aransas’s lodging industry.

Second, in the two step process Chapter 351 of the Tax Code states that the use of HOT funds is limited to the following statutorily provided categories:

- a) **Convention Centers and Visitor Information Centers:** the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation and maintenance of convention center facilities or visitor information centers, or both;
- b) **Registration of Convention Delegates:** the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;
- c) **Advertising, Solicitations and Promotions that Directly Promote Tourism and the Hotel and Convention Industry:** advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;
- d) **Promotions of the Arts that Directly Promote Tourism and the Hotel and Convention Industry:** 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;
- e) **Historical Restoration and Preservation Activities that Directly Promote Tourism and the Hotel and Convention Industry:** historical restoration and preservation activities or promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums;
- f) **Sporting Event Expenses that Substantially Increase Economic Activity at Hotels:** Expenses including promotional expenses, directly related to a sporting event in which the majority of participants are tourists. The event must substantially increase economic activity at hotels within the city or its vicinity;

**g) Funding transportation systems for transporting tourists from hotels to and near the city to any of the following destinations:**

1. The commercial center of the city;
2. A convention center in the city;
3. Other hotels in or near the city; or
4. Tourist attractions in or near the city.

The law specifically prohibits the use of the local hotel tax to cover the costs for general city transit costs to transport the general public;

**h) Signage directing tourists to sights and attractions that are visited frequently by hotel guests in the municipality.**

**i) Coastal Erosion Projects.**

**Application Process**

Applications for funding will be submitted through the city application forms with required attachments provided by the applicants. City staff and the HOTAB will review the applications solely through the written applications. The applicant is required to be present at a public meeting to answer any questions regarding the application for hotel tax funding. Applicants will be notified of the meeting date to be conducted in the Council Chambers at City Hall.

Expense plans or budgets must be provided with your application. The expense plan or budget must show how your organization intends to spend the requested funds. Expenses are limited to the nine allowable uses by state law.

The HOTAB reserves the right to approve or disapprove the suitability of any particular element of a proposed program, event, or facility at its sole and absolute discretion. The HOTAB reserves the right to deny assistance to any application that may be inconsistent with the policies and goals of the HOTAB.

**Request for Assistance to Promote a Program, Event, or Facility.**

The HOTAB will consider providing financial support for program, event, or facility that will directly increase overnight stays in the City of Port Aransas consistent with the level of funding requested by providing any information for consideration, such as:

1. **Prior Impact:** historic information on the number of room nights used during previous years for the same events;
2. **Lodging Signatory List / Current Room Block:** current information such as visitors filling out the City's Lodging Signatory List form, or information on the size of a room block that has been reserved at area hotels or lodging providers to accommodate anticipated overnight guests attending the funded event, program, or facility and actual "pick up/utilization" of room block;

3. **Historic Event Attendance by Hotel Guests:** historical information on the number of guests at hotel or other lodging facilities that attended the funded event or program through surveys, facility or event visitor logs, guest directories, or other sources;
4. **Proposed Marketing Plan:** programs and schedule of activities that will generate or encourage overnight visitors to local lodging properties from the event.
5. **Any other proposed means by applicant documenting and demonstrating an increase in overnight stays in the City of Port Aransas.**

The HOTAB shall review the information provided by the applicant to ensure candidates meet the funding criteria and guidelines, and the HOTAB shall make a recommended determination as to eligibility and any recommended funding to the Port Aransas City Council. The Port Aransas City Council (PACC) may accept or amend the HOTAB's recommendations by a majority vote of the PACC.

**All applicants should understand that potential HOTAB funding may decrease every year for recurring events. It is the intent of the City to provide stewardship and equitable disbursement of HOT grant funding in order to encourage new programs, events, or facilities applicants.**

It is the responsibility of the applicant to notify the Port Aransas Tourism Bureau and Chamber of Commerce of their event or program upon being awarded funding. The Port Aransas Tourism Bureau and Chamber of Commerce can assist with promoting, marketing, and other services.

The event or program organizers must keep track of overnight stays that are booked with hotels, motels, condominiums, and short-term rentals located in the City of Port Aransas as a direct result of their event. If event or program organizers do not keep track of overnight stays from the event, program, or facility they will not qualify for reimbursement funds.

Requests for promotional items being used within the Port Aransas City Limits is not eligible use. Also, promotional items (i.e. t-shirts, hats, koozies, etc.) that event or program organizers provide or sell prior, during or after their event are not eligible uses for reimbursement. The grant does reimburse promotion items that are purchased & given away for free as an advertising strategy before the event takes place.

#### **Use of Revenues from Program, Event, or Facility.**

**After receiving imbursement, return any unused or ineligible monies to the City of Port Aransas before September 30<sup>th</sup> of the same fiscal year that the funds were issued by the City.** No other outside event(s), projects, charity, etc., sponsored by the host organization may profit from the awarded HOT funding. Applicant acknowledges that if grant funds are awarded, the event or program organizers agree to allow the financials of this event or program to be viewed at any time by the City of Port Aransas prior to receiving reimbursement for the event. All documents and records are subject to the Public Information Act.

## **Post Event Report**

Within 60 days of an event's or program's completion, the funded applicant must complete the city-provided post event form and be prepared to note the actual impact figures for the event, program, or facility and provide receipts for expenditures or payments that were covered by hotel occupancy tax. For programs that reoccur during the City's fiscal year (October 1<sup>st</sup> – September 30<sup>th</sup>) the applicant must submit the city-provided post event form by September 1<sup>st</sup>. Post Event Reports document the expenditures of awarded funds and verifies the **direct** promotion of tourism and lodging industry. These materials will be submitted and presented by the funded applicant in a scheduled follow-up meeting with the HOTAB.

Submission of the form and other supporting documents will be submitted to the Office of the Assistant City Manager at City Hall or emailed to [lcutrone@cityofportaransas.org](mailto:lcutrone@cityofportaransas.org). Post event HOTAB hearings will be scheduled, and staff will notify the applicant of the meeting date and time.

Supporting documents include:

1. A completed post event report and its attached budget should mirror the original application and its attached budget.
2. A count of room nights stayed in the City of Port Aransas with information and documentation demonstrating how that number was found.
3. Proof of payment for eligible, reimbursable expenses, which includes a statement showing a zero balance, receipts, copy of cancelled checks, etc.
4. Verbal follow-up report given during scheduled HOTAB meeting.

**Any advertising, promotion, and marketing assistance will require the City of Port Aransas official logo on the materials used.** Also, the City of Port Aransas shall be recognized as an event, program, or facility sponsor and receive benefits at the sponsorship level consistent with the grant amount awarded.

Not submitting all requested and required documents may produce a non-eligibility standing of the requesting party.

## **Funding Limitations**

The HOTAB reserves the right to fund all or in-part or to decline the request of the organizer based on the projected and historical economic impact to the tourism industry of the City of Port Aransas. Funding recommendations are not final until the request has been reviewed and receives voted approval by the Port Aransas City Council.

The HOTAB reserves the right to approve, restrict, amend, or deny funding based on the performance projections and reports of all applications. All funding provided to an approved applicant will be in

accordance with all state and local regulations regarding the proper use of tourist development tax collections.

Consideration for funds will not exceed one current budget or fiscal year. Each event, program, or facility request will require its own application and other required supporting documentation to be submitted each fiscal year.

The Art category expenses in a fiscal year cannot exceed 15% of the HOT revenue collected by the City.

The Historical category expenses in a fiscal year cannot exceed 15% of the HOT revenue collected by the City.

Hotel Occupancy Tax Grant funds may not be used for the following:

1. Funding to individuals;
2. Reduction of deficits from, or expenditures related to, activities of previous or future fiscal calendar, or program years;
3. Capital improvements;
4. Contracted auditing, accounting, or bookkeeping fees;
5. Landscaping;
6. Travel for a person to attend an event or conduct an activity of which the primary purpose is not directly related to the promotion of tourism and the lodging industry or the performance of the person's job in an efficient and professional manner; or
7. Advertising materials that will be distributed inside the city limits of the City of Port Aransas.

### **Permits**

Organizers must secure and maintain all licenses, event permits, and/or other authorizations necessary to conduct the event or program (at their cost). Organizers must provide the HOTAB with copies of all such required licenses, permits, and/or authorizations at the application review session or post event report review session.

### **Compliance with Laws**

Organizers agree to comply with all laws, regulations, & ordinances applicable to the event or program. All programs, events, or facilities must meet the public safety criteria of the City of Port Aransas, Nueces County, and City of Port Aransas Fire and Police Departments. All police, security, fire protection, and emergency medical required by the event permit(s), or required by the above-named agencies must be paid for by the organizer a minimum of thirty (30) days in advance of the event or program.

### **Vendors, Exhibitors & Sponsors**

The organizer must provide to the HOTAB lists of all vendors, exhibitors, and sponsors participating in the program, event, or facility. The HOTAB reserves the right to approve, decline, or dismiss (in advance or on-site) any vendor, exhibitor, or sponsor whose conduct, merchandise, services, displays advertising,

promotional materials, and/ or activities may be inconsistent with the policies and goals of the HOTAB or the City of Port Aransas.

The lists of vendors, exhibitors, and sponsors must be provided to the HOTAB at the time of the application review session and the post event report review session.

### **Insurance and Indemnification**

Organizers must obtain and maintain at their own expense, for the specified dates of the program, event, or facility (including setup and takedown), general and public liability insurance naming the City of Port Aransas as additional insured.

Comprehensive liability insurance must be obtained from an insurance carrier approved by the HOTAB in the amount of at least \$1,000,000.00 per occurrence for personal injury, bodily injury, and property damage. Such policy must be in a form acceptable to the HOTAB and must require the insurer to give the HOTAB written notice of any modification or cancellation. **Organizers must provide the Office of the Assistant City Manager at City Hall with a copy of the certificate of insurance at least fourteen (14) days prior to the event or program is scheduled to take place.**

Organizers must indemnify, and hold the City of Port Aransas, HOTAB, their officers, directors, elected officials, agents, representatives, employees, and volunteers harmless from and against any and all claims, suits, expenses, damages, or other liabilities, including reasonable attorney fees and court costs, arising out of bodily injury or property damages resulting from or in connection with the event or program.

### **Force Majeure**

Neither party will be liable for any failure to perform its obligations hereunder, due to unforeseen circumstances or causes beyond the Party's reasonable control, including, without limitation, acts of God, war, riot, embargoes, acts of civil or military authorities, acts of terrorism or sabotage, electronic viruses, worms or corrupting microcode, fire, flood, earthquake, accident, strikes, radiation, inability to secure transportation, failure of communications or electrical lines, facilities, fuel, energy, labor or materials, and pandemics. In an event of any force majeure events, including any of the above, but not limited to the above, either Party's time for delivery or other performance will be extended for a period equal to the duration of the delay caused thereby, if possible, to extend or reschedule. The Party subject to the force majeure shall (A) give notice of suspension of its obligations as soon as reasonably practicable stating the date and extent of such suspension and the cause thereof, (B) use its best efforts to remedy or remove such force majeure with the least practicable delay, and (C) resume the performance of its obligations as soon as reasonably practicable after the remediation or removal of the cause. Notwithstanding anything to the contrary herein, if an event of force majeure can reasonably be expected to prevent the affected Party from performing its obligations for a period of at least six (6) months, then the other Party may terminate this agreement upon not less than fifteen days written notice to the affected Party.

**Cancellation**

The HOTAB reserves the right to demand repayment of all funding allocated to an applicant and/or event or program as a result of cancellation of the event or program. It will be the responsibility of the organizer to insure the successful completion of the program, event, or facility. If the organizer elects to cancel the proposed event, the organizer will be responsible for all funds spent or obligated at the time of cancellation.



**Applicant Certification Form**

I hereby certify and affirm that (1) I have read the entire information provided in this Hotel Occupancy Tax Grant Policy and Application packet and understand and will comply with all provisions therein; and that I intend to use the grant for the aforementioned event/expenditure to directly enhance and promote tourism and hotel industry by attracting visitors from outside of the Port Aransas city limits into the City to stay overnight in one of Port Aransas's lodging facilities. (2) I will abide by all relevant local, state, and federal laws and regulations regarding the use of Hotel Occupancy Tax.

Certified by (Signature) \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_