

The sections to be added are outlined below, with Exhibit A following.

Section to Add	Sec. 8-30. - Definitions
Powder Springs' Current HMT	Sec. 8-31. - Levied. Sec. 8-32. - Rate. Sec. 8-33. - Exceptions. Sec. 8-34. - Authority. Sec. 8-35. - Purpose. Sec. 8-36. - Maximum aggregate amount of excise taxes.
Sections to be Added	Sec. 8-37 - Registration of operator; form and contents; execution; certificate of authority. Sec. 8-38 - Determination; returns and payments. Sec. 8-39 - Deficiency determinations. Sec. 8-40 - Determination if no return made. Sec. 8-41 - Administration of article. Sec. 8-42 - Collection of tax. Sec. 8-43 - Penalty for violation. Sec. 8-44 - Severability.
Powder Springs' Current HMT	Sec. 8-45. - Termination. Sec. 8-46. - Effective date. Sec. 8-47. - Notification.

ORD 2020-23
Code of Ordinances
Exhibit A

Chapter 8 - FINANCE AND TAXATION.
ARTICLE II. - EXCISE TAX ON LODGINGS

Sec. 8-30. - Definitions. *New Addition.*

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Due date means from the 20th day after the close of the monthly period for which tax is to be computed.

Guestroom means a room occupied, or intended, arranged, or designed for occupancy, by one or more occupants for the purpose of living quarters or residential use.

Hotel means any structure or any portion of a structure, including any lodging house, rooming house, dormitory, Turkish bath, bachelor hotel, studio hotel, motel, motor hotel, auto court, inn, public club, or

private club, containing guestrooms and which is occupied, or is intended or designed for occupancy, by guests, whether rent is paid in money, goods, labor, or otherwise. It does not include any jail, hospital, asylum, sanitarium, orphanage, prison, detention, or other buildings in which human beings are housed and detained under legal restraint.

Monthly period means the calendar months of any year.

Occupancy means the use or possession, or the right to the use or possession, of any room or apartment in a hotel or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room.

Occupant means any person who, for a consideration, uses, possesses, or has the right to use or possess any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

Operator means any person operating a hotel in the city, including, but not limited to, the owner or proprietor of such premises, lessee, sub-lessee, lender in possession, licensee or any other person otherwise operating such hotel.

Permanent resident means any occupant as of a given date who has or shall have occupied or has or shall have the right of occupancy of any guestroom in a hotel for at least 30 consecutive days next preceding such date.

Person means an individual, firm, partnership, joint adventure, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, excepting the United States of America, the state and any political subdivision of either thereof upon which the city is without power to impose the tax provided in this article.

Rent means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also the amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.

Return means any return filed or required to be filed as provided in this article.

Tax means the tax imposed by this article.

Sec. 8-31. - Levied. *Section 8-30 in existing code*

An excise tax is levied within the corporate limits of the city upon the furnishing for value to the public of any room or rooms, lodgings or accommodations furnished by any person or legal entity licensed by, or required to pay business or occupation taxes to the city for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin or any other place in which rooms, lodgings, or accommodations are regularly furnished for value.

(Ord. No. 91-25, § 1, 10-7-91)

Sec. 8-32. - Rate. *Section 8-31 in existing code*

The rate of the excise tax levied shall be eight (8) percent of the value of the room or rooms, lodgings or accommodations furnished.

(Ord. No. 91-25, § 2, 10-7-91)

Sec. 8-33. - Exceptions. *Section 8-32 in existing code*

The excise tax shall not be levied upon the fees or charges for any room, lodgings or accommodations furnished for a period of more than thirty (30) consecutive days or for use as meeting rooms. Further, no tax shall be levied upon the fees or charges for any rooms, lodgings or accommodations furnished for a period of one (1) or more days for use by state or local government officials or employees when traveling on official business.

(Ord. No. 91-25, § 3, 10-7-91; Ord. No. 2016-013, § 1(Exh. A), 4-4-16)

Sec. 8-34. - Authority. *Section 8-33 in existing code*

The excise tax herein is levied pursuant to O.C.G.A. § 48-13-51(a)(5.1).

(Ord. No. 91-25, § 4, 10-7-91)

Sec. 8-35. - Purpose. *Section 8-34 in existing code*

Sixty-two and one-half (62.5) percent of the eight (8) percent excise tax activity collected shall be paid to the Cobb-Marietta Coliseum and Exhibit Hall Authority for the following purposes:

- a) At least sixty-two and one-half (62.5) percent of the total eight (8) percent excise tax shall be expended for the purposes of:
 - 1) Promoting tourism, conventions, and trade shows.
 - 2) Funding, supporting, acquiring, constructing, renovating, improving, and equipping buildings, structures, and facilities, including, but not limited to, a coliseum, exhibit hall, conference center, performing arts center, or any combination thereof, for convention, trade show, athletic, musical, theatrical, cultural, civic, and performing arts purposes and other events and activities for similar and related purposes, acquiring the necessary property therefor, both real and personal, and funding all expenses incident thereto, and supporting, maintaining, and promoting such facilities owned, operated, or leased by or to the Cobb-Marietta Coliseum and Exhibit Hall Authority.
 - 3) For some combination of such purposes.
- b) At least fifty (50) percent of the total eight percent (8) excise tax shall be expended for the purpose of funding, supporting, acquiring, constructing, renovating, improving, and equipping buildings, structures, and facilities, including, but not limited to, a coliseum, exhibit hall, conference center, performing arts center, or any combination thereof, for convention, trade show, athletic, musical, theatrical, cultural, civic, and performing arts purposes and other events and activities for similar and related purposes, acquiring the necessary property therefor, both real and personal, and funding all expenses incident thereto, and supporting, maintaining, and promoting such facilities owned, operated, or leased by or to the Cobb-Marietta Coliseum and Exhibit Hall Authority.
- c) Amounts so expended shall be expended only through a contract or contracts with the state, a department of state government, a state authority, a convention and visitors bureau authority created by local act of the General Assembly for a municipality, the Cobb-Marietta Coliseum and Exhibit Hall Authority or a private sector nonprofit organization or through a contract or contracts with some combination of such entities; and the city agrees to execute such a contract with the Cobb-Marietta Coliseum and Exhibit Hall Authority.

(Ord. No. 91-25, § 5, 10-7-91)

Sec. 8-36. - Maximum aggregate amount of excise taxes. *Section 8-35 in existing code*

The aggregate amount of all excise taxes imposed by this article and all sales and use taxes, and other taxes imposed by the state, county, and the city on the value of rooms, lodgings and accommodations shall not exceed thirteen (13) percent.

(Ord. No. 91-25, § 6, 10-7-91)

Sec. 8-37. - Registration of operator; form and contents; execution; certificate of authority. *New Addition*

Every person engaging or about to engage in business as an operator of a hotel in this city shall immediately register with the city manager or his/her designee on a form provided by the city manager or his/her designee. Such registration shall set forth the name under which such person transacts business or intends to transact business, the location of his/her place of business and such other information which would facilitate the collection of the tax as the city manager or his/her designee may require. The registration shall be signed by the owner if a natural person; in case of ownership by an association or partnership, by a member or partner; in the case of ownership by a corporation, by an officer. The city manager or his/her designee shall, after such registration, issue without charge a certificate of authority to each operator to collect the tax from the occupant. A separate registration shall be required for each place of business of an operator. Each certificate shall state the name and location of the business to which it is applicable.

Sec. 8-38. - Determination; returns and payments. *New Addition*

- a) Due date of taxes. All amount of such taxes shall be due and payable to the city monthly on or before the 20th day of every month next succeeding each respective monthly period as set forth in section 8-30.
- b) Return; time of filing; persons required to file; contents. On or before the 20th day of the month following each monthly period, a return for the preceding monthly period shall be filed with the city manager or his/her designee showing the gross rent, rent from permanent residents, taxable rent, amount of tax collected or otherwise due for the related period, and such other information as may be required by the mayor and council, or the city manager or his/her designee.
- c) Collection fee allowed operators. Operators collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and payment of the amount due, if the amount is not delinquent at the time of payment. The rate of deduction shall be three percent of the gross tax due or \$25.00, whichever is less. A Collection fee deduction is allowed only if the amount due was not delinquent at the time of payment.
- d) Penalty and Interest on Delinquent Returns. Any operator who fails to pay the amount of tax required to be collected and paid to the city within the time allowed shall pay a penalty of ten percent of the tax due, in addition to the amount of tax, plus interest on the unpaid tax at the rate of one percent per month or fraction thereof from the due date until the date of payment.

Sec. 8-39. - Deficiency determinations. *New Addition*

- a) Recomputation of tax; authority to make; basis of recomputation. If the city manager or his/her designee is not satisfied with the return of the tax or the amount of the tax required to be paid to the city by any person, he/she may compute and determine the amount required to be paid upon the basis of any information within his/her possession or that may come into his/her possession. One or more deficiency determinations may be made of the amount due for one or more monthly periods.

- b) Interest on deficiency. The amount of the determination shall bear interest at a rate of one percent per month, or fraction thereof from the due date of taxes.
- c) Notice of determination; service of. The city manager or his/her designee shall give to the operator written notice of his/her determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the operator at his/her address as it appears in the records of the occupation tax certificate issued to the operator. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.
- d) Time within which notice of deficiency determination to be mailed. Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20th day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period should last expire.

Sec. 8-40. - Determination if no return made. *New Addition*

- a) Estimate of gross receipts. If any person fails to make a return, the city manager or his/her designee shall make an estimate of the amount of the gross receipts of the person, or as the case may be, of the amount of the total rentals in this city which are subject to the tax. The estimate shall be made for the period in respect to which the person failed to make the return and shall be based upon any information which is or may come into the possession of the city manager or his/her designee. Written notice shall be given in the manner prescribed in section 8-39(c).
- b) Interest on amount found due. The amount of the determination shall bear interest at the rate of one percent per month, or fraction thereof, from the 20th day of the month following the monthly period, for which the amount or any portion thereof should have been returned, until the date of payment.

Sec. 8-41. - Administration of article. *New Addition*

- a) Authority. The city manager or his/her designee shall administer and enforce the provisions of this article for the collection of the tax imposed by this article.
- b) Records required from operators; form. Every operator renting guestrooms in this city to a person shall keep such records, receipts, invoices, and other pertinent papers in such form as the city manager or his/her designee may require.
- c) Examination of records; audits. At any reasonable time, the city manager or his/her designee may examine the books, papers, records, financial reports, equipment and other facilities of any operator renting guestrooms to a person and any operator liable for the tax, in order to verify the accuracy of any return made or, if no return is made by the operator, to ascertain and determine the amount required to be paid.(d)Authority to require reports; contents. In administration of the provisions of this article, the city manager or his/her designee may require the filing of reports by any persons or class of persons having in such person's or person's possession or custody information relating to rentals of guestrooms which are subject to the tax. The reports shall be filed with the city manager or his/her designee when required by the city manager or his/her designee and shall set forth the rental charge for each occupancy, the date of occupancy, and such other information as the city manager or his/her designee may require.

Sec. 8-42. - Collection of tax. *New Addition*

- a) Action for tax; time for. At any time within three years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the city manager or his/her designee may bring an action in a

court of competent jurisdiction in the name of the city to collect the amount delinquent together with interest, court fees, filing fees, attorney's fees and other legal fees incident thereto.

- b) Duty of successors or assignees of operator to withhold tax from purchase money. If any operator liable for any amount under this article sells out his/her business or quits the business, his/her successors or assigns shall withhold a sufficient amount of the purchase price to cover such amount until the former owner produces a receipt from the city manager or his/her designee showing that he/she has been paid or a certificate stating that no amount is due.
- c) Liability for failure to withhold; certificate of notice of amount due; time to enforce successor's liability. If the purchaser of a business fails to withhold the purchase price as required, he/she shall be personally liable for the price as required, he/she shall be personally liable for the payment of the amount required to be withheld by him/her to the extent of the purchase price.
- d) Tax credit or interest paid more than once or erroneously or illegally collected. Whenever the amount of any tax or interest has been paid more than once or has been erroneously or illegally collected or received by the city under this article, it may be offset by the city manager or his/her designee. If the operator or person determines that he/she has overpaid or paid more than once, which fact has not been determined by the city manager or his/her designee, he/she will have three years from date of payment to file claim in writing stating the specific ground upon which claim is founded. The claim shall be audited. If the claim is approved by the city manager or his/her designee, the excess amount paid the city may be credited on any amounts then due and payable from the person by whom it was paid, or his/her administrators or executors.

Sec. 8-43. - Penalty for violation. *New Addition*

Any person violating any of the provisions of this article shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided in section 1-8. Each such person shall be guilty of a separate offense for each day during any portion of which any violation of any provision of the article is committed, continued, or permitted by such person, and shall be punished accordingly. Any operator or any other person who fails to register as required in this article, 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 manager or who renders a false or fraudulent return shall be deemed guilty of an offense and, upon conviction thereof, shall be punished as described in this section.

Sec. 8-44. - Severability. *New Addition*

If any section, subsection, sentence, clause, phrase or a portion of this article shall be declared invalid or unconstitutional by any court of competent jurisdiction, or if the provisions of any part of this article as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this article not so held to be invalid, or the application of this article to other circumstances not so held to be invalid. It is hereby declared as the intent that this article would have been adopted had such invalid portion not been included herein.

Sec. 8-45. - Termination. *Section 8-36 in existing code*

Any tax levied pursuant to this article shall terminate not later than December 31, 2028; provided that during any period during which there remains outstanding any obligation issued to fund a facility or facilities as contemplated by this article secured in whole or in part by a pledge of a tax authorized under this article, the powers of the city to impose and distribute the tax imposed by this article shall not be

diminished or impaired by the state; and the city shall not cease to levy the tax in any manner that will impair the interests and rights of the holder of any such obligation. This proviso shall be for the benefit of the holder of any such obligation and, upon the issuance of any such obligation by the Cobb-Marietta Coliseum and Exhibit Hall Authority, shall constitute a contract with the holder of such obligation.
(Ord. No. 91-25, § 7, 10-7-91)

Sec. 8-46. - Effective date. *Section 8-37 in existing code*

This article shall be effective upon its passage by the mayor and council, viz, October 7, 1991. All taxes authorized herein shall be collected beginning October 1, 1991.
(Ord. No. 91-25, § 8, 10-7-91)

Sec. 8-47. - Notification. *Section 8-38 in existing code*

The appropriate city official is directed to notify, authorize and direct the appropriate city offices and departments to inform all appropriate businesses in the city regarding the change in the excise tax as imposed herein.
(Ord. No. 91-25, § 9, 10-7-91)