

**ORDINANCE NO. 1098 (2019)**

**AN ORDINANCE OF THE CITY OF CRAIG, COLORADO REFERRING A QUESTION TO THE REGISTERED ELECTORS APPROVING THE IMPOSITION AND LEVY OF AN ADDITIONAL SALES TAX OF 5% ON THE SALES OF RETAIL MARIJUANA AND MARIJUANA PRODUCTS AND AN EXCISE TAX OF 5% ON THE SALE OR TRANSFER OF ALL UNPROCESSED WHOLESALE MARIJUANA FROM A RETAIL MARIJUANA CULTIVATION FACILITY TO A RETAIL MARIJUANA STORE OR ANY OTHER RETAIL MARIJUANA BUSINESS; AND SETTING A BALLOT MEASURE FOR THE NOVEMBER 5, 2019 COORDINATED ELECTION.**

**RECITALS**

WHEREAS, the City of Craig (the “City”) is a Colorado home rule city duly organized and existing under the laws of the State of Colorado;

WHEREAS, the members of the City Council of the City (the “City Council”) have been duly elected and qualified:

WHEREAS, Article X, Section 20 of the Colorado Constitution, also referred to as the Taxpayer’s Bill of Rights (“TABOR”) requires voter approval for any new tax, any increase in any tax rate, the creation of any debt extension of an expiring tax and the spending of certain funds above limits established by TABOR;

WHEREAS, the Craig City Council is referring two measures for the coordinated election on November 5, 2019, one of which would authorize the establishment and operation of retail marijuana stores and one of which would authorized marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and marijuana warehousing facilities, if passed by the registered electors of the City of Craig;

WHEREAS, the City Council determines that if approved by the voters that there should be additional sales tax revenues derived from the retail marijuana businesses pursuant to Section 29-2-102, C.R.S. and Articles 26 and 28.2 of Title 39, C.R.S.;

WHEREAS, the City Council proposes an additional sales tax in the amount of five (5%) percent on the sale of retail marijuana and retail marijuana products by retail marijuana stores within the City Craig;

WHEREAS, the City Council finds and determines that it is appropriate to submit to the registered electors of the City of Craig, Colorado, at the coordinated election to be held on November 5, 2019, a question concerning whether the City of Craig shall levy an additional sales tax of five (5%) percent on the sale of retail marijuana and marijuana products within the City of Craig:

WHEREAS, subsection (2)(a) of Section 29-2-114, C.R.S., provides that in addition to any sales tax imposed pursuant to Section 29-2-102, C.R.S. and Articles 26 and 28.2 of Title 39, C.R.S., and in addition to the excise tax imposed pursuant to Article 28.8 of Title 39, C.R.S., each municipality in the state is authorized to levy, collect and enforce a municipal excise tax on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility; and

WHEREAS, said municipal excise tax is imposed at the time when the retail marijuana cultivation facility first sells or transfers unprocessed retail marijuana from the retail cultivation facility to a retail marijuana store, another retail cultivation facility, a retail marijuana manufacturing facility or to any other marijuana business; and

WHEREAS, said municipal excise tax imposed by any municipality may not exceed five percent (5%) of the average market rate, as determined by the Colorado Department of Revenue pursuant to Section 39-28.8-101(1), C.R.S. of the unprocessed retail marijuana; and

WHEREAS, any municipal excise tax cannot be collected, administered or enforced by the Colorado Department of Revenue, but shall instead be collected, administered and enforced by the municipality imposing the tax; and

WHEREAS, no municipal excise tax shall be levied pursuant to the provisions of subsection (2)(a) of Section 29-2-114, C.R.S. until the proposal has been referred to and approved by the eligible electors of the municipality in accordance with the provisions of Article 10 of Title 31, C.R.S., and may be submitted to the eligible electors of the municipality on the date of a regular municipal election; and

WHEREAS, TABOR requires that the City submit ballot issues, as defined in TABOR, to the City's registered electors on specified election days before an action can be taken on such ballot issues;

WHEREAS, a coordinated election as will occur on November 5, 2019, is one of the election dates at which TABOR ballot issues may be submitted to the registered electors of the City pursuant to TABOR;

WHEREAS, the City Council of the City of Craig is of the opinion that the City Council should refer to the registered electors at the November 5, 2019 coordinated election a TABOR ballot issue the imposition and levy of an additional sales tax of 5% on the sale of retail marijuana and marijuana products in the City of Craig and an excise tax of 5% on the sale or transfer of all unprocessed wholesale marijuana produced in the City by a retail marijuana cultivation facility to a retail marijuana store or any other retail marijuana business, for the purposes specified in this ordinance;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CRAIG AS FOLLOWS:**

1. The question of the increase in sales and imposition of use tax is authorized for referral to the Craig City Clerk for inclusion on the ballot for the general election to be held on Tuesday, November 5, 2019, which shall be submitted for approval by the registered electors in the City of Craig. The measure referred by this Ordinance shall automatically take effect upon certification of the City Clerk, or Moffat County Clerk, as may be necessary, that a majority of the registered electors voting at that election have approved the establishment of the District.
  
2. The ballot issue shall be substantially as follows:

BALLOT MEASURE (number to be determined):

SHALL CITY OF CRAIG TAXES BE INCREASED BY \$200,000.00 ANNUALLY IN THE FIRST FULL FISCAL YEAR BEGINNING JANUARY 1, 2021 AND SUCH AMOUNTS COLLECTED IN FUTURE YEARS BY IMPOSING AN ADDITIONAL SALES TAX OF 5% OF THE PRICE PAID ON THE SALE OF RETAIL MARIJUANA AND MARIJUANA PRODUCTS AND AN EXCISE TAX OF 5% ON THE SALE OR TRANSFER OF ALL UNPROCESSED MARIJUANA FROM A RETAIL MARIJUANA CULTIVATION FACILITY TO A RETAIL MARIJUANA STORE OR ANY OTHER RETAIL MARIJUANA BUSINESS; AND WITH THE RESULTING TAX REVENUE BEING ALLOWED TO BE COLLECTED AND SPENT NOTWITHSTANDING ANY LIMITATIONS CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER SPENDING, REVENUE RAISING, OR OTHER LIMITATIONS PROVIDED BY LAW; WITH THE TAX REVENUES FROM THE ADDITIONAL SALES TAX AND EXCISE TAX BEING COMMITTED AND USED BY THE CITY TO FUND THE MOFFAT COUNTY LIBRARY (CRAIG BRANCH) AND MUSEUM OF NORTHWEST COLORADO IN CRAIG FOR FIVE BUDGET YEARS?

YES \_\_\_\_\_ NO \_\_\_\_\_

3. The City Council may submit additional ballot issues or other measures to appear on the ballot of the regular election by the adoption of appropriate ordinances as required by law.
4. The deadline for any pro or con statements regarding this TABOR ballot measure shall be submitted to the City Clerk no later than September 20, 2019.
5. Upon passage of the measure, the City staff shall propose an ordinance to modify the Craig Municipal Code to reflect the rate change to the sales tax provisions and the implementation of the use tax on vehicles. Such ordinance shall be approved by the City Council.
6. The officers and employees of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this ordinance. Upon approval on second reading, the City Clerk shall certify the ballot content to the Moffat County Clerk for inclusion on the ballot for the November 5, 2019 coordinated election.
7. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance.
8. This Ordinance shall take effect ten (10) days after passage and upon publication of such ordinance after passage.
9. The City Council deems it appropriate to publish the title of this Ordinance, together with a summary of the Ordinance and with the statement that the text is available for public inspection and acquisition in the office of the City Clerk.

READ, APPROVED AND ORDERED PUBLISHED ON FIRST READING THIS \_\_\_\_\_  
DAY OF \_\_\_\_\_, 2019 BY THE CITY COUNCIL OF THE CITY OF CRAIG,  
COLORADO.

\_\_\_\_\_  
Jarrod Ogden, Mayor

ATTEST:

\_\_\_\_\_  
Liz White, City Clerk

PASSED, APPROVED, AND ADOPTED AFTER HEARING ON SECOND READING THIS  
\_\_\_\_ DAY OF \_\_\_\_\_, 2019 BY THE CITY COUNCIL OF THE CITY OF  
CRAIG, COLORADO.

\_\_\_\_\_  
Jarrod Ogden, Mayor

ATTEST:

\_\_\_\_\_  
Liz White, City Clerk