1 **CITY OF HOMER** 2 HOMER, ALASKA 3 City Clerk 4 **ORDINANCE 18-41** 5 6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, 7 AMENDING HCC 21.61.040(B) TO CODIFY THE CITY COUNCIL'S ROLE AS THE LOCAL REGULATORY AUTHORITY UNDER AS 17.38 8 9 AND AUTHORIZING COUNCIL TO DECIDE WHETHER TO PROTEST 10 MARIJUANA ESTABLISHMENT APPLICATIONS FILED WITH THE 11 STATE OF ALASKA FOR SITES WITHIN THE CITY OF HOMER 12 WHEREAS, AS 17.38.200 provides that, upon receiving an application or renewal 13 application for a marijuana establishment, the Marijuana Control Board shall immediately 14 forward a copy of each application and half of the registration application fee to the local 15 regulatory authority for the local government in which the applicant desires to operate the 16 marijuana establishment; and 17 18 19 WHEREAS, 3 ACC 306.060 provides local governments 60 days to protest new marijuana 20 establishment license applications, renewal applications or transfer requests of a marijuana 21 establishment license; and 22 23 WHEREAS, Homer City Code ("HCC") 21.62.040(b) presently provides that the City Planner shall be responsible for reviewing all applications filed with the State of Alaska for the 24 operation of marijuana establishments in the City of Homer, and also that the City Planner, or 25 his or her designee, shall make recommendations concerning whether such applications 26 27 comply with the Code; and 28 29 WHEREAS, It is appropriate for City Council, which is the local regulatory authority for purposes of AS 17.38, to review such applications and determine whether or not to protest such 30 applications subject to input by the City Planner regarding whether or not the application 31 32 complies with the Code. 33 34 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Homer, Alaska that: 35 Section 1. Homer City Code 21.62.040 entitled "Pre-application conference and State 36 37 of Alaska application review process" is hereby amended to read: 38 39 a. When this title requires a conditional use permit for a marijuana facility, the applicant must meet with the City Planner to discuss the conditional use permit 40 process and any issues that may affect the proposed conditional use. This 41 42 meeting is to provide for an exchange of general and preliminary information

43 only and no statement made in such meeting by either the applicant or the City Planner shall be regarded as binding or authoritative for the purposes of this 44 title. 45 46 b. Council is designated as the "local regulatory authority" as that term is used 47 in AS 17.38. 48 49 50 c. The City Planner shall review all applications filed with the State of Alaska under AS 17.38, once those applications have been transmitted to the City for its 51 review by the Marijuana Control Board or other designated agency of the State 52 of Alaska, for compliance with the Code. Within 15 days of receipt of an 53 application under this section, the City Planner shall provide the City Clerk with 54 the application with a written notice to Council stating whether the application 55 56 complies or fails to comply with the Code. 57 58 d. Upon receipt of the application and the City Planner's notification regarding compliance, Council shall consider whether or not to protest the application at 59 60 its next regularly scheduled meeting. Council may protest any application 61 under this section or may recommend that an application under this section be 62 approved subject to conditions. 63 e. The review of an application under this section shall not be subject to formal 64 rules of evidence or procedure and Council may consider any facts or factors it 65 deems relevant to its review so long as such facts or factors are not arbitrary, 66 67 capricious or unreasonable. 68 69 f. Council's decision regarding whether or not to protest an application under 70 this section shall be final and is not subject to appeal. 71 72 <u>Section 2.</u> This ordinance shall take effect upon its adoption by the Homer City Council. 73 74 Section 3. This ordinance is of a permanent and general character and shall be included in the City Code. 75 76 77 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 22nd day of October, 2018. 78 79 CITY OF HOMER 80 81 82 83

KEN CASTNER, MAYOR

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85	ATTEST:
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88	Melin Succloser
89	MELISSA JACOBSEN, MMC, CITY CLERK
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91	YES: 6
92	NO: 0
93	ABSTAIN: O
94	ABSENT:0
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96	First Reading: 9.10.18
97	Public Hearing: 10.22.18
98	Second Reading: \0.2218
99	Effective Date: 10.13.18
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104	Reviewed and approved as to form:
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106	Value Value of
107	- Jaco Wall
108	Katie Koester, City Manager Hetly Wells, City Attorney
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110	Date: $10.26-18$ Date: $11.6-18$