Non-Code Ordinance

By: Public Works Introduced: May 23, 2022 Public Hearing: June 13, 2022 Adopted: June 13, 2022 Yes: Brown, Graham, Johnson, Rubeo, Sullivan-Leonard, Velock No: None Absent: None

City of Wasilla Ordinance Serial No. 22-17

An Ordinance Of The Wasilla City Council Authorizing The Mayor To Enter Into A Use Agreement And Permit With The Alaskan Bowhunter's Association For A Static Archery Range In The Eastern Corner Of Lake Lucile Park Located On Lot B1, Section 16, Township 17 North, Range 1 West, Seward Meridian.

WHEREAS, the mission of the Wasilla Parks and Recreation Commission is to provide

optimum service levels to the public as cost-effectively as possible promote a healthy community,

provide a safe environment and a quality lifestyle, and promote maximum citizen participation in

government; and

WHEREAS, pursuant to Wasilla Municipal Code (WMC) 2.64.010(B) the purpose of the

Wasilla Parks and Recreation Commission is to advise the City on matters pertaining to parks

and recreation facilities; and

WHEREAS, pursuant to WMC 2.64.010(C)(2), the Parks and Recreation Commission is to make recommendations to the City Council for general and specific development of parks and recreation facilities and programs; and

WHEREAS, the Wasilla Parks and Recreation Commission adopted Resolution Serial No.

21-02 on July 14, 2021, which supports the development of a static archery range in the eastern corner of Lake Lucile Park; and

WHEREAS, the Wasilla Planning Commission adopted Resolution Serial No. 21-09 on August 10, 2021, which supports the development of a static archery range in the eastern corner of Lake Lucile Park; and

Bold & Underline, added. Strikethrough, deleted

City of Wasilla, Alaska

WHEREAS, the Wasilla City Council has considered the development of a static archery range in the eastern corner of Lake Lucile Park as recommended by the Wasilla Parks and Recreation Commission and the Wasilla Planning Commission.

NOW, THEREFORE, BE IT ORDAINED:

Section 1. Classification. This is a non-code ordinance.

Section 2. Authorization. The Mayor is authorized to enter into a Use Agreement with the Alaskan Bowhunter's Association for a static archery range in the eastern corner of Lake Lucile Park, located on Lot B1, Section 16, Township 17 North, Range 1 West, Seward Meridian.

Section 4. Effective Date. This ordinance shall take effect upon adoption.

ADOPTED by the Wasilla City Council on June 13, 2022.

Glenda D. Ledford, Mayor

[SEAL]

Jamie Newman, MMC, City Clerk

City of Wasilla Legislative Staff Report Ordinance Serial No. 22-17 (Non-Code Ordinance)

Authorizing The Mayor To Enter Into A Use Agreement And Permit With The Alaskan Bowhunter's Association For A Static Archery Range In The Eastern Corner Of Lake Lucile Park Located On Lot B1, Section 16, Township 17 North, Range 1 West, Seward Meridian.

Originator: Date:	Danielle Bischoff, Director of Public Works 5/11/2022 Agend		of: 5/23/2022
Route to:	Department Head	Signature	Date
Х	Public Works Director	Panielled Birchett	5/16/22
Х	Recreational Services Director	SuttBall	5-16-22
Х	Finance Director	Marikante	5-16-22
Х	Deputy Administrator	(property)	5/16/20
Х	City Clerk	Aum	5/16/2020
Х	Mayor	DerderLefard	5-16-02

Fiscal Impact:
yes or
no

Funds Available: ves or on no

Attachments: Ordinance Serial No. 22-17 (2 pages) Use Agreement and Permit (10 pages) Planning Commission Resolution Serial No. 21-09 (2 pages) Parks and Recreation Commission Resolution Serial No. 21-02 (3 pages)

Summary Statement: This Ordinance allows the Mayor to enter into a Use Agreement and Permit with the Alaskan Bowhunter's Association for the creation of a static archery range in Lake Lucile Park. This range will be developed and maintained by the Alaskan Bowhunter's Association. The location selected is away from other activities in the park with safety of all park users being paramount. The Wasilla Parks and Recreation Commission as well as the Wasilla Planning Commission have passed resolutions supporting the range's establishment.

Proposed Action: Introduce and set the Ordinance for public hearing.

USE AGREEMENT AND PERMIT

WHEREAS, the City owns real property known as "Lake Lucile Park" more particularly described as Lot B1, Section 16, Township 17 North, Range 1 West, Seward Meridian, Wasilla, Alaska ("Lake Lucile Park"); and

WHEREAS, the City agrees to permit User to operate an archery range on the northeast corner of Lake Lucile Park, in an area more specifically identified in Exhibit A of this Agreement (the "Permit Area") and subject to the terms and conditions in this Agreement,

In consideration of the mutual agreements and considerations described in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

Section 1. <u>Use Agreement and Permit</u>.

Subject to the conditions and limitations of this Agreement, the City hereby grants permission to User to operate a static archery range in the Permit Area. This Agreement represents a nonexclusive privilege authorizing special use of the City's land. This Agreement conveys no interest in the real property on which the Permit Area is located and is issued to allow User to use the Permit Area only for authorized purposes specifically identified in this Agreement or approved in writing by the City. A breach of any provision of this Agreement by User shall result in termination of the Agreement and revocation of this Agreement and may result in a claim for damages by the City.

Section 2. <u>Rent</u>.

The City has determined that the use authorized by this Agreement serves a public and notfor-profit purpose that benefits the community of Wasilla. The City agrees to allow User to use the Permit Area free of charge, subject to the terms of this Agreement and in consideration for the public benefit resulting from the permitted use described in Section 5, "Purpose and Permitted Use," of this Agreement.

Bowhunter Association Use Agreement and Permit 5/2022

Page 1 of 9 01207038.DOCX Section 3. <u>Structures</u>.

No structures are permitted on or within the Permit Area except for storage unit(s) approved by City in writing.

Section 4. <u>Term</u>.

The term of this Agreement shall be five (5) years, commencing on the Effective Date (the "Term"). This Agreement shall terminate upon expiration of the Term, unless renewed as provided in this Agreement, or upon termination by either party as described in Section 7, "Termination," of this Agreement. The initial term of this Agreement may be renewed for an additional term of five (5) years ("Renewal Term") if (a) User submits a written request for renewal to the City before the expiration of the Term; (b) the City consents to the Renewal Term in writing; and (c) the renewal is approved by City Council, if required by law.

Section 5. <u>Purpose and Permitted Use.</u>

5.1 By entering into this Agreement, User confirms and agrees that it is a nonprofit organization in good business standing with the State of Alaska and that its use of the Permit Area will serve a not-for-profit public purpose within the City of Wasilla. Any charge of membership or use fees by User must be used in furtherance of User's public purpose.

5.2 User is permitted to use the Permit Area solely for the purpose of operating a static archery range and an archery education and instruction program.

Section 6. <u>General Terms of Use.</u>

In addition to terms of use otherwise required in this Agreement, User agrees to the following terms of use:

6.1 User shall be responsible for constructing, maintaining, and securing the static archery range and any storage facilities, fencing, equipment or personal property located in or securing the Permit Area. The Permit Area shall be maintained in a safe condition at all times.

6.2 User is responsible to provide a certificate of insurance that meets the coverage requirements specified in Section 11, "Insurance Requirements," of this Agreement.

6.3 User shall not permit use of the static archery range unless an authorized agent of User is present in the Permit Area and responsible for operation and supervision of the static archery range.

6.4 User shall coordinate construction activities with the City Public Works Department and shall not construct or erect any improvement in the Permit Area without written approval from

Bowhunter Association Use Agreement and Permit 5/2022

Page 2 of 9 01207038.DOCX the Public Works Department and as permitted in Section 3, "Structures," of this Agreement;

6.5 User shall comply with the City of Wasilla Park Use Rules as defined in Wasilla Municipal Code 12.24 and all other federal, state, and local laws regarding its use of the Permit Area.

6.6 User shall not discriminate in any manner against any person or group of persons in the services it provides, its terms of membership or its use of the Permit Area.

Section 7. <u>Termination.</u>

7.1 Either party may terminate this Agreement at any time for any reason but both parties agree to provide the other party notice of termination at least 30 days before the date of termination.

7.2 User shall remain subject to the provisions of this Agreement until all improvements and personal property have been removed from the Permit Area, all activities in the Permit Area have stopped, and the Permit Area has been returned to the same or better condition it was in on the Effective Date.

7.3 The City may immediately and without notice terminate this Use Agreement if User violates the terms of this Agreement, as determined in the City's sole discretion by the Mayor or the Mayor's designated representative.

Section 8. <u>Maintenance, Safety, and Environmental Requirements.</u>

8.1 At its own cost, User shall maintain the Permit Area in a clean and safe condition at all times. User shall comply with all federal, state and local laws and regulations. User shall not dispose of or bury any waste, garbage or litter in the Permit Area. User shall not keep or store any hazardous materials on, in or near the Permit Area or create any environmental or other hazards to the public. In the event User violates this provision, User shall be solely liable and responsible for any and all costs to remove, cleanup or remediate any environmental or hazardous materials left, spilled, leaked, stored or otherwise caused to be placed on or within the Permit Area.

8.2 All provisions of this Agreement regarding maintenance, safety, and environmental requirements apply to all property impacted by User's use of the Permit Area under this Agreement, including but not limited to Lake Lucile Park.

Section 9. <u>Security</u>.

User shall be solely responsible for the security of any item, equipment, chattel, or other property ("User Property") it stores in the Permit Area pursuant to this Agreement, including any damage or theft caused to User Property. The Parties agree that the City shall not act as a bailee

Bowhunter Association Use Agreement and Permit 5/2022

Page 3 of 9 01207038.DOCX as a result of this Agreement and that no provision of this Agreement shall be construed to create a bailment between the Parties.

Section 10. <u>Indemnification</u>.

Except for the sole and gross negligence of the City and to the fullest extent permitted by law, User shall defend, indemnify, and hold harmless the City and any government bodies, departments, employees, agents, representatives or volunteers of the City from any and all claims, demands, losses, and liabilities to or by any third party, including, but not limited to costs, attorney's fees, expenses, and claims for any damages, contributions, or indemnification arising or resulting from or connected with services or supplies provided by or performed under this Agreement by User, it's members, volunteers, employees, agents, customers, students or any persons using the Permit Area even though such claims may prove to be false, groundless, or fraudulent. The indemnification obligation under this Agreement shall not be limited in any way by any restriction on the amount or type of damages, compensation, or benefits payable to or for any third party, or any employee under any worker's compensation act, disability benefit act, or other employee benefit act. Entitlement to recovery of costs, attorney fees and expenses under the indemnification obligation shall include all fees, costs, and expenses incurred in good faith by the City.

Section 11. <u>Insurance Requirements</u>.

11.1 User shall purchase from and maintain in a company or companies lawfully authorized to do business in the State of Alaska as admitted insurers or approved surplus lines insurers and approved by the City, such insurance as will protect User and the City from claims set forth in this section of this Agreement and other claims which may arise out of or as a result from User's operations under this Agreement, whether such operations are by User, its members, employees, agents, representatives, assigns, students or members of the public using the Permit Area or by anyone for whose acts any of them may be liable. Restrictions, conditions or exclusions contained in the insurance policies shall not reduce the obligations of the User under this Agreement. Claims set forth in this section include:

A. Claims under worker's compensation, employers' liability, disability benefits, and other similar employee benefit acts which are applicable to the use of the Permit Area under this Agreement.

B. Claims for damages because of bodily injury, sickness, disease or death of any person other than User's employees.

C. Claims for damages insured by usual personal injury liability insurance coverage which are sustained: (1) by a person as a result of an offense directly or indirectly related to the employment of such person by User or (2) by any other person or entity.

Bowhunter Association Use Agreement and Permit 5/2022

Page 4 of 9 01207038.DOCX D Claims for damages for the destruction of tangible property, including loss of use resulting from such destruction.

E. Claims for damages because of bodily injury, including death of a person, or damage to property arising out of the ownership, maintenance or use of any motor vehicle.

F. Claims involving User's contractual obligations and assumption of liability under this Agreement.

11.2 Liability insurance shall include at a minimum, all major divisions of coverage and be on a commercial general liability form including:

A. Premises/Operations Liability;

- B. Products/Completed Operations Liability;
- C. Personal/Advertising Injury Liability;
- D. Fire Damage Liability;
- E. Medical Payments; and
- F. Participant Legal Liability for archery and related sports activities.

11.3 Insurance coverage required under this section shall meet the insurance limitations contained in Subsection 11.4 of this Agreement or those limits required by law, whichever limit is higher. Insurance, whether written on an occurrence, or a claims-made basis, shall be maintained without interruption from the Effective Date to the date of final use, or termination of any insurance required to be maintained after final use.

11.4 The insurance required under this Agreement shall be written for not less than the following limits, unless otherwise agreed upon by the Parties in writing:

A. Worker's Compensation Insurance: Statutory Requirements of the State of Alaska, and Employer Liability Insurance limits of: (1) \$500,000 each accident; (2) \$500,000 disease each employee; and (3) \$500,000 disease policy limit.

B. Commercial General Liability Insurance: Form CG0001 04/13 or equivalent, with limits of: (1) \$1,000,000 Combined Single Limit of Liability per Occurrence; (2) \$1,000,000 Personal/Advertising Injury Limit of Liability per Occurrence; (3) \$1,000,000 Participant Legal Liability; (4) \$2,000,000 Annual General Aggregate Limit of Liability; (5) \$2,000,000 Annual Products/Completed Operations Aggregate

Bowhunter Association Use Agreement and Permit 5/2022

Page 5 of 9 01207038.DOCX Limit of Liability; (6) \$100,000 Fire Damage Limit of Liability Any One Fire; and (7) \$5,000 Medical Payment Limit Any One Person.

C. Commercial Automobile Liability Insurance: Form CA0001 03/10 or equivalent, with limits of: (1) \$1,000,000.00 Combined Single Limit of Liability per Accident for all Owned, Hired, and Non-Owned Vehicles.

11.5 Certificates of insurance acceptable to the City shall be filed with the City before the Effective Date of this Agreement or any use of the Permit Area by User. If any of the insurance policies required in this section are canceled for any reason, User shall provide immediate notice to the City of the cancellation and either provide evidence of replacement or notice of reinstatement. The evidence of replacement or notice of reinstatement shall be delivered to the City before the scheduled cancellation date. Failure of User to comply with this section of the Agreement shall constitute a violation of this Agreement requiring immediate vacation of the Permit Area. In addition to any other remedies available to the City under this Agreement, User agrees to vacate the Permit Area and cease all operations under this Agreement and in the Permit Area before the scheduled cancellation date. Immediate notice under this subsection means that User shall notify the City in writing by certified mail within five calendar days of receipt of the cancellation notice from the insurance company.

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Bowhunter Association Use Agreement and Permit 5/2022

Page 6 of 9 01207038.DOCX

Section 12. Vacation and Removal of Property.

12.1 User shall vacate the Permit Area no later than thirty (30) days after expiration of the Term or upon expiration of a Renewal Term, or upon termination subject to notice under this Agreement. Before vacating the Permit Area and within the thirty (30) day period, User must remove all equipment, garbage, litter and any other chattels or materials it has placed or caused to be placed in the Permit Area.

12.2 User shall vacate the Permit Area no later than ten (10) days upon termination for cause under this Agreement. Before vacating the Permit Area and within the ten (10) day period required under this subsection, User must remove all equipment, garbage, litter and any other chattels or materials it has placed or caused to be placed in the Permit Area.

12.3 If User Property is not removed within the time required by this section, then it becomes the property of the City and the City may use, sell, destroy or otherwise dispose of the property without any obligation to User.

Section 13. <u>Authority to Execute Agreement</u>.

The Parties hereby warrant and represent that each has authority to enter into and perform the obligations of this Agreement.

Section 14. Notices

At the signing of this Agreement, User shall provide the City with the names of two (2) contact persons with authority for activities and events under this Agreement and physical and electronic mail addresses and telephone numbers for such contact persons that the City may use to communicate and give notices to User. Any notices required to be sent under this Agreement shall be sent via U.S. Mail to the Parties at the following addresses:

City of Wasilla 290 E. Herning Avenue Wasilla, Alaska 99654

Alaskan Bowhunters Association PO Box 220047 Anchorage, AK 99522-0047

Bowhunter Association Use Agreement and Permit 5/2022

Page 7 of 9 01207038.DOCX

Section 15. <u>Relationship of the Parties</u>.

No provision of this Agreement shall be construed to create a partnership or joint venture or any other arrangement between the City and User under which the City would be liable for the debts, losses or liabilities of User. Further, no provision of this Agreement shall be construed to create an employment or agency relationship between the Parties. User officers, employees, personnel, members, or volunteers shall at all times be considered agents or employees of User and not of the City. User shall assume full responsibility for the actions or inactions of User's directors, officers, employees, personnel, members, or volunteers, and User shall be solely responsible for the supervision, direction and control of such persons.

Section 16. <u>Permit Fees and Taxes</u>.

No permit fees shall be assessed. All applicable taxes or assessments shall be paid by and are the sole responsibility of User.

Section 17. Assignment.

Neither this Agreement nor the permit granted by its terms may be transferred or assigned without the City's prior written consent.

Section 18. <u>Severability</u>.

Any provision or clause of this Agreement that is deemed invalid by a court or otherwise by law shall not affect the validity of the remainder of the Agreement.

Section 19. <u>Governing Law and Venue</u>.

This Agreement and the rights and obligations of the parties hereunder shall be construed in accordance with the laws of the State of Alaska. Any legal proceeding in connection with this Agreement shall be in the trial courts of the State of Alaska for the Third Judicial District. It is understood that consultation and negotiation are the first option for resolving all disputes arising under this Agreement.

Section 20. No Waiver.

The failure of the City at any time to enforce a provision or part of this Agreement shall in no way constitute a waiver of such provision or part, nor in any way affect the validity of this Agreement or any part of this Agreement. A waiver by the City of any provision or part of this Agreement shall not be construed as a continuing or future waiver of such provision or part or as a continuing or future waiver of any other provision or part of this Agreement. Any waivers of the permit conditions shall be in writing and signed by both Parties.

Bowhunter Association Use Agreement and Permit 5/2022

Page 8 of 9 01207038.DOCX Section 21. Integration.

The Parties intend this Agreement to be the complete and exclusive expression of their agreement and the permit granted to User. No representations or promises not contained in this document have been made by the City. No modification to this Agreement may be made unless in writing and executed by both Parties.

Section 22. <u>Interpretation</u>.

This Agreement has been submitted to the scrutiny of the Parties and their counsel if desired, and it shall be interpreted without consideration to or weight given to its being drafted by any party or its counsel and shall be interpreted according to its fair meaning and intent and not for or against either party.

Agreed to by Glenda Ledford, Mayor of the City of Wasilla, Alaska on behalf of the City of Wasilla, Alaska on ______, 2022.

Mayor, Glenda D. Ledford

Agreed to by Frank S. Noska IV, President for the Alaskan Bowhunters Association, on behalf of the Alaskan Bowhunters Association on ______, 2022.

President, Frank S. Noska IV

Bowhunter Association Use Agreement and Permit 5/2022

Page 9 of 9 01207038.DOCX

Exhibit A: Permit Area



Bowhunter Association Use Agreement and Permit

By: Recreation Services Public Hearing: 08/10/21 Adopted: 08/10/21

WASILLA PLANNING COMMISSION RESOLUTION SERIAL NO. 21-09

A RESOLUTION OF THE WASILLA PLANNING COMMISSION SUPPORTING A RECOMMENDATION BY THE WASILLA PARKS AND RECREATION COMMISSION (RESO #21-02) TO THE WASILLA CITY COUNCIL REGARDING DEVELOPMENT OF A STATIC ARCHERY RANGE IN THE EASTERN CORNER OF LAKE LUCILE PARK BY THE ALASKA BOWHUNTER'S ASSOCIATION LOCATED ON LOT B1, SECTION 16, TOWNSHIP 17 NORTH, RANGE 1 WEST, SEWARD MERIDIAN.

WHEREAS, the mission of the Wasilla Parks and Recreation Commission is to provide optimum service levels to the public as cost-effectively as possible, promote a healthy community, provide a safe environment and a quality lifestyle, and promote maximum citizen participation in government; and

WHEREAS, pursuant to Wasilla Municipal Code (WMC) 2.64.010(B), the purpose of the Wasilla Parks and Recreation Commission is to advise the City on matters pertaining to parks and recreation facilities; and

WHEREAS, pursuant to WMC 2.64.010(C)(1), the Wasilla Parks and Recreation Commission is to coordinate with and obtain approval of the Planning Commission on site locations and general development plans for parks and recreation facilities; and

WHEREAS, pursuant to WMC 2.64.010(C)(2), the Parks and Recreation Commission is to make recommendations to the City Council for general and specific development of parks and recreation facilities and programs; and

WHEREAS, the Wasilla Parks and Recreation Commission adopted Resolution Serial No. 21-02 on July 14, 2021, which supports the development of a static archery range in the eastern corner of Lake Lucile Park.

WHEREAS, the Planning Commission recognizes the importance of implementing healthy activities and recreational opportunities for city residents of all ages and skill level; and

NOW, THEREFORE BE IT RESOLVED, the Wasilla Planning Commission hereby supports the development of a static archery range in the eastern corner of Lake Lucile Park as recommended by the Wasilla Parks and Recreation Commission.

ADOPTED by the Wasilla Planning Commission on August 10, 2021.

APPROVED:

Eric Bushnell, Chair Date

ATTES Tina Crawford, AICP, City Planner

Passed Unanimously VOTE:

2 Action: Adopted July 14, 2021 3 Yes: Shampine, Clayton, Matthews 4 No: None 5 Absent: Tuttle, Shea 6 7 **City of Wasilla** 8 **Resolution Serial No. 21-02** 9 10 A Resolution Of The Wasilla Parks And Recreation Commission, Supporting The 11 Development Of The Alaskan Bowhunter's Association Static Archery Range In The Eastern Corner Of Lake Lucile Park. 12 13 14 WHEREAS, pursuant to WMC 2,64.010.A, the purpose of the Wasilla Parks and 15 Recreation Commission is to advise the City on matters pertaining to parks and recreation 16 facilities; and 17 WHEREAS, the Parks and Recreation Commission recognizes the importance of implementing healthy activities and the importance of engaging recreational opportunities in our 18 19 city for its residents and community; and 20 WHEREAS, the mission of the Parks and Recreation Commission is to provide optimum 21 service levels to the public as cost effectively as possible, promote a healthy community, 22 provide a safe environment and a quality lifestyle, and promote maximum citizen participation in 23 government; and 24 WHEREAS, The Alaskan Bowhunter's Association was founded in 1971 as the State's first and only bowhunting-based Conservation Organization, and is one of the largest sporting 25 26 organizations in Alaska; and WHEREAS, The Alaskan Bowhunter's Association partners regularly with other 27 28 Conservation organizations to work together to contribute to projects and educational activities 29 that support common goals and missions for the betterment of Alaskan hunters and the State's 30 wildlife; and

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By: Parks and Recreation

WHEREAS, The Alaskan Bowhunter's Association education program along with the
 Alaska Department of Fish and Game adopted the International Bowhunter Program and has
 certified thousands of Alaskan bowhunters; and

WHEREAS, The Alaskan Bowhunter's Association has been instrumental in working with the Alaska State Board of Game and the Department of Game and Fish on numerous bowhunting issues, laws, regulations, and programs; and

37 WHEREAS, the Alaskan Bowhunter's Association would like to build, at the 38 organizations expense, a static archery range in the Eastern corner of Lake Lucile Park; and

WHEREAS, lower elevation of this area and its remoteness within the park make thisspot ideal for the range; and

41 WHEREAS, only field target points will be allowed and no broadheads will be permitted 42 on site; and

43 WHEREAS, Alaskan Bowhunter's Association will be solely responsible for the 44 maintenance of the range; and

45 WHEREAS, safety is a main concern for the Alaskan Bowhunter's Association. The 46 organization will post a safety zone restricted access area signage along Riley Road, in the 47 woods surrounding the range, and signage at the entrance of the parking lot locked gate; and

WHEREAS, a member of the Alaskan Bowhunter's Association will always be present when the range is in use and all shooters will sign in before they shoot and sign out when through; and

51 WHEREAS, range rules will be posted at the range and all users must agree to follow 52 them; and

53 WHEREAS, range use will be limited to members only. Membership will be open to the 54 public with family memberships available also.

City of Wasilla, Alaska

Resolution Serial No. 21-02 Page 2 of 3 55 WHEREAS, the plan is to encourage schools, churches, and youth groups to use the 56 range free of charge; and

57 WHEREAS, Alaskan Bowhunter's Association will offer archery lessons to the 58 organizations; and

59 WHEREAS, currently, the nearest outdoor archery range is in Chugiak; and

NOW, THEREFORE, BE IT RESOLVED, that the Wasilla Parks and Recreation Commission 60

61 supports the development of The Alaskan Bowhunter's Association static archery range in the

62 Eastern corner of Lake Lucile Park.

63 Effective Date. This resolution takes effect upon adoption.

64 ADOPTED by the Wasilla Parks and Recreation Commission on July 14, 2021.

7/14/2021

Mary Shampine, Co-Chair

ATTEST:

Services

7-14-21 Joan Klapperich, Director of Recreation

[SEAL]