



Policy Number: PW-005	Title: License Agreements – Use of Parking Spaces
Effective Date: 7-20-20	Division: Public Works – Admin Support Services
Approved Date: 7-20-20 Revised Date: 8-18-20	Approved By: Gwen Rowitsch – Public Works, Support Services Mgr Sarah Siep – City Clerk Paul Macari – Building Official Jon Brambila – Police Department

Policy Statement: This policy shall apply to businesses requesting to use City owned parking spaces for expansion of their business activities during the COVID-19 pandemic. The policy will allow businesses flexibility of the City Codes as well as use of City property to meet State mandated requirements and remain open for business at the same time.

Procedure:

1. Uses on City sidewalks that are exempt from permitting are listed in City Code, Section 8-2-4. (attached)
2. If a business desires to conduct business that is not exempt from permitting on City sidewalks or in City right-of-way, a License Agreement is required.
3. To apply for a License Agreement, the applicant will send a written narrative of what they are asking to do and the kinds of uses to take place in the leased area (e.g. tables, chairs, hostess station, decking, trees, lighting, barriers, temporary signage, fencing, etc. The applicant will also include a site plan, drawn with dimensions but not necessarily to scale to Katie Hein at Katie.hein@prescott-az.gov or Gwen Rowitsch at gwen.rowitsch@prescott-az.gov .

The site plan will show:

- a. The existing building frontage and the right of way (parking spaces) or sidewalk area to be used.
- b. Back of curb and any other features on the sidewalk or right of way such as trees, tree wells, light poles, fire hydrants, benches, trash containers, stop

signs, parking spaces, ADA ramps or anything else (permanent or semi-permanent) in the sidewalk or right of way.

4. When the narrative and the site plan have been submitted, a field visit is performed by the City to verify that all items in the right of way and/or sidewalk are represented correctly on the site plan and that the proposed plan meets City requirements.

Note: Any deviations to what is in the policy can be requested in writing and will be reviewed based on individual circumstances by the Public Works Director for approval or denial.

- A. The following are the minimum City requirements to use parking spaces for business purposes:
 - a. Insurance Policy naming the City as an additional insured with an endorsement certificate. Minimum \$1M occurrence/\$2M aggregate for sidewalk use only. Minimum \$2M occurrence/\$4M aggregate for use of parking spaces.
 - b. Visual barriers must be used. (eg. Lighting, trees, water filled barriers, reflective materials, etc)
 - c. Use of sidewalk may not exceed the width of the business frontage.
 - d. If requesting to use sidewalk or right of way beyond the length of the business frontage must have written approval of neighboring property owner/businesses.
 - e. Maximum area for use of parking spaces is 40 feet parallel to the curb per Council direction.
 - f. Use of curbside pick up signage may not be used if the parking spaces in front of a business are being used for other purposes.
 - g. The use of raised/level decks for additional and/or level areas for seating may be used but are limited to 6 feet in height or subject to Building Official approval prior to start of construction.
 - i. Decks should have a safety hand rail and or a raised lip a minimum of 4" high on the floor to prevent chairs and patrons from falling.
 - ii. Decks shall be designed and constructed to not obstruct the flow of stormwater drainage in the gutter.
 - iii. City manholes and water valves may be covered with a deck at the risk of the Licensee. Maintenance and repair of City utilities may require the removal of any improvements in the City right of way (parking spaces).
 - iv. Decks shall have flexible bollards and traffic parking bumpers at both ends of the deck in the direction of traffic travel. Additionally, decks shall be a minimum of 3-5 feet from the parallel travel lane.

- v. Decks shall be no closer than 30 feet from an intersection, may not obstruct turning visibility and are required to meet NACTO safety standards.
5. If the site plan and narrative meet the City guidelines above the applicant is advised by staff to submit a DRAFT of the insurance policy to the City via e-mail for review by the Legal Department, BEFORE the insurance company issues the policy. Please allow 1-2 days for review of the policy. If Legal gives the green light, then the City will e-mail the applicant to execute the original policy.

NOTE: These policies expire 1 year from the date issued. If the policy is not renewed, then the use/encroachment must be removed.

6. While the insurance policy is being obtained the staff will prepare the License Agreement. The City will notify the applicant when the Agreement has been written. The License Agreement is a legal contractual document so an original/wet notarized signature is required, no electronic signatures.
7. After the License Agreement is issued, the applicant is required to secure a permit from the Prescott Police Department for use of the parking spaces. Please contact Lieutenant Jon Brambila at 928-777- 1918 or jon.brambila@prescott-az.gov. This step may be done concurrently with the extension of premise application, Step 8.
8. After the License Agreement is issued, if the applicant is requesting an extension of premises for their liquor license, the applicant will submit an application to the City Clerk. (attached)
 - a. If the extension of premises is contiguous to the existing use, the temporary extension of premises will be issued by the DLLC for up to 6 months.
 - b. If the extension of premises is not contiguous to the existing use, ie. Separated by a sidewalk, the DLLC will issue a permanent extension of premises with an expiration date of 6 months, with a \$50 fee.
 - c. Questions regarding the extension of premise should be directed to Sarah Siep, City Clerk at 928-777-1245 or sarah.siep@prescott-az.gov.

Other Guidelines:

1. City Code, Chapter 8-2
2. Example Narrative
3. Example Site Plan
4. Sample Insurance Policy
5. Extension of Premise Application

CHAPTER 8-2: CITY RIGHT-OF-WAY

8-2-3 USE OF CITY RIGHT-OF-WAY:

(A) No person shall maintain or use a location on any City right-of-way or sidewalk owned by the City for the purpose of conducting any business, providing a service, advertising or making or attempting to make sales, except for those facilities or uses described as follows: sanitary sewer mains; manholes and service connections; water mains; vaults and service connections; gas mains, vaults, manholes and service connections; television conduit, duct, direct buried cable or wire, vaults, manholes and poles; electrical conduit, duct, direct buried cable or wire, vaults, manholes and poles; telephone and other communication conduit, duct, direct buried cable or wire, vaults, manholes and poles; small cell wireless facilities and support structures; and those uses and facilities specifically listed in Section 8-2-4.

(B) No person shall make any improvement at any location on, over, across or under any City right-of-way or sidewalk owned by the City other than that which has been approved and a permit issued by the Public Works Department for said improvement.

(C) No person shall stand on any City right-of-way or sidewalk owned by the City and solicit, or attempt to solicit employment, business or contributions from the occupants of any vehicle.

(D) No person shall place, maintain or cause to be placed or maintained an encroachment or obstruction on or in any public right-of-way, unless a permit has been issued by the City of Prescott pursuant to Section 8-2-6.

(E) No person shall place, maintain or cause to be placed or maintained a campaign sign or any other temporary sign on or in any public right-of-way. Violations of these provisions shall be punishable as prescribed in Section 1-3-1, General Penalty; Misdemeanors, Civil Violations Continuing Violations. (Ord. 3528, eff. 8-13-1996; Ord. 4107, 5-8-2001; Ord. 4839-1302, 7-10-2012; Ord. 4968-1506, 2-16-2016; Ord. 4981-1519, 6-7-2016; Ord. 2019-1646, 3-12-2019)

8-2-4 EXEMPTIONS:

The following uses are hereby exempt from the provisions of Sections 8-2-2 and 8-2-3(A), but are subject to the remaining provisions of this chapter (unless otherwise indicated):

(A) The placement of mailboxes. Said mailboxes are also exempt from the provisions of Section 8-2-7 unless they do not meet the construction requirements as set forth in the YAG standard details and specifications.

(B) The placement of receptacles for free magazines, periodicals, newspapers, and paper-based marketing and advertisement materials, which are also exempt from the provisions of Sections 8-2-3(B), 8-2-5 and 8-2-7, outside of the downtown business area. However, said receptacles shall be placed back of the curb where curbs are installed and shall be placed so as not to interfere with the traveled roadway where curbs are not installed. The placement of privately owned receptacles for free magazines, periodicals, newspapers, and paper-based marketing and advertisement materials is strictly prohibited in the downtown business area. The "downtown business area" is defined in subsection (L) of this section.

(C) The placement of vending machines for the sale of magazines, periodicals, and newspapers outside of the City's downtown business area is exempt from the provisions of this chapter with respect to requiring a permit and paying the fees therefor, but said newspaper racks shall be securely fastened by a chain or cable to a permanent structure to prevent their being moved and interfering with pedestrian traffic. The placement of privately owned vending machines in the downtown business area is strictly prohibited. The "downtown business area" is defined in subsection (L) of this section.

(D) The placement of City-owned receptacles and vending machines for the storage of, and/or sale of, magazines, periodicals, newspapers, and paper-based marketing and advertisement materials.

(E) The planting of or the removal of any tree or shrubbery, which is also exempt from the provisions of Section 8-2-7.

(F) All duly franchised or licensed utility companies installing mains, service connections, conduit, ducts, direct buried cable or wire, overhead wires, poles, vaults or manholes in any City right-of-way, which are also exempt from the provisions of Section 8-2-7.

(G) The placement of racks or similar improvements for the securing and parking of bicycles adjacent to businesses owned by or occupied by the applicant, which are also exempt from the provision of Section 8-2-7; provided, however, that in the downtown Prescott area all such racks or similar improvements must be constructed of black metal or iron which is compatible with the existing downtown furnishings in the downtown Prescott area.

No permit shall be issued pursuant to this subsection until the applicant posts with the City a general liability insurance policy, in an amount of not less than one million dollars (\$1,000,000.00), naming the City of Prescott as an additional insured. The requirement for insurance shall remain in full force and effect so long as the racks or similar improvements remain in the public right-of-way.

(H) Planters or other similar uses, which are also exempt from the provisions of Section 8-2-7.

(I) Sidewalk sales by duly licensed businesses adjacent thereto, which are also exempt from the provisions of Section 8-2-7. Said sales shall only be allowed by written permission of the City Manager, subject to any terms, conditions and restrictions as determined by the City Manager. Such sales shall be limited to four (4) events per year per business, as determined by the City Manager. All merchandise and associated equipment, if placed in a sidewalk, must be placed in such a manner that it allows a minimum of forty-eight inches (48") of unobstructed travel on the sidewalk, and must be placed closer to the business than the curb or outside edge of the sidewalk. Such sales shall also be exempt from the provisions of Sections 8-2-6 and 8-2-7.

(J) Tables, benches and chairs, which are also exempt from the provisions of Sections 8-2-5, 8-2-6 and 8-2-7. Said tables, benches and chairs may be placed on a sidewalk adjacent to a duly licensed business by that business, with the following limitations and conditions:

1. Tables and chairs may only be outside of a business when the adjacent business is open to the public.
2. All such tables, chairs and benches must be kept in a clean condition and in a good state of repair. Unsanitary conditions, including, but not limited to, the accumulation of dirt, debris, breakage, rotting, crumbling, cracking, peeling or rusting, and any other similar condition of disrepair or deterioration, is expressly prohibited.
3. If placed in a sidewalk, all such benches must be placed in such a manner that it allows a minimum of forty-eight inches (48") of unobstructed travel on the sidewalk. All such tables and chairs must be placed in such a manner that it allows a minimum of forty-eight inches (48") of unobstructed travel on the sidewalk between the tables and chairs and the curb or outside edge of the sidewalk. All tables and chairs must be placed closer to the business than the curb or outside edge of the sidewalk, and laterally may not extend past the building facade of that business.
4. All tables, chairs and benches allowed by this subsection (J) must be made of metal, wood or a combination thereof; provided, however, that in the downtown Prescott area, all tables, chairs and benches must be constructed of black metal or iron which is compatible with the existing downtown furnishings, and further that outside umbrellas associated with tables or benches are hereby prohibited in the downtown Prescott area.
5. Signage or advertising on any table, bench or chair is expressly prohibited.

(K) Sandwich signs, which are also exempt from the provisions of Sections 8-2-5, 8-2-6 and 8-2-7, with the following limitations and conditions:

1. Said signs may only be outside of a business located within the Downtown Business Zone District, which conducts business on a continuing basis at a permanent location, when the adjacent business is open to the public, and placed in the right-of-way by or on behalf of that business.

2. Said signs may be no more than fifty inches (50") high and thirty-one inches (31") wide. The foregoing measurement shall include all structures or objects upon which the sign is placed or located, together with anything affixed or attached thereto.
3. All such signs must be kept in a clean condition and in a good state of repair. Unsightly conditions, including, but not limited to, the accumulation of dirt, debris, breakage, rotting, crumbling, cracking, peeling or rusting, and any other similar condition of disrepair or deterioration, is expressly prohibited.
4. There may only be a maximum of one (1) sign in front of any one (1) property at any one (1) time.
5. If placed in a sidewalk, any such sign must be placed in such a manner that it allows a minimum of forty-eight inches (48") of unobstructed travel on the sidewalk. In the downtown Prescott area, all such signs must be placed closer to the curb or outside edge of the sidewalk than to the business.
6. The following signs are expressly prohibited: any sign emitting sound, containing light bulbs, balloons, or signs with intermittent or flashing illumination, or animated or moving signs.
7. No signs may be located within a street, public trail, City planter, roadway or other thoroughfare, nor may any sign be affixed to a tree, traffic sign, traffic-control device or utility pole.

(L) For the purposes of this section, the "downtown Prescott area" is hereby defined as follows: that area which is bounded on the south by Carleton Street (not inclusive of Carleton Street), on the east by Marina Street (inclusive of Marina Street), on the north by Sheldon Street (inclusive of Sheldon Street), and on the west by McCormack Street (inclusive of McCormack Street).

(M) The placement of kiosks and the use thereof which are owned by the City. (Ord. 4121, 6-26-2001; Ord. 4420, 10-26-2004; Ord. 4839-1302, 7-10-2012; Ord. 4968-1506, 2-16-2016; Ord. 4981-1519, 6-7-2016; Ord. 2019-1644, 2-26-2019)

herewith. (Ord. 2019-1646, 3-12-2019)

EXHIBIT B

Name of Business Here

Address - Location

[redacted] is proposing to use 3-4 public parking spaces directly in front of their location at [redacted] Street for additional seating, on a temporary basis, due to COVID-19 seating restrictions inside of the restaurant.

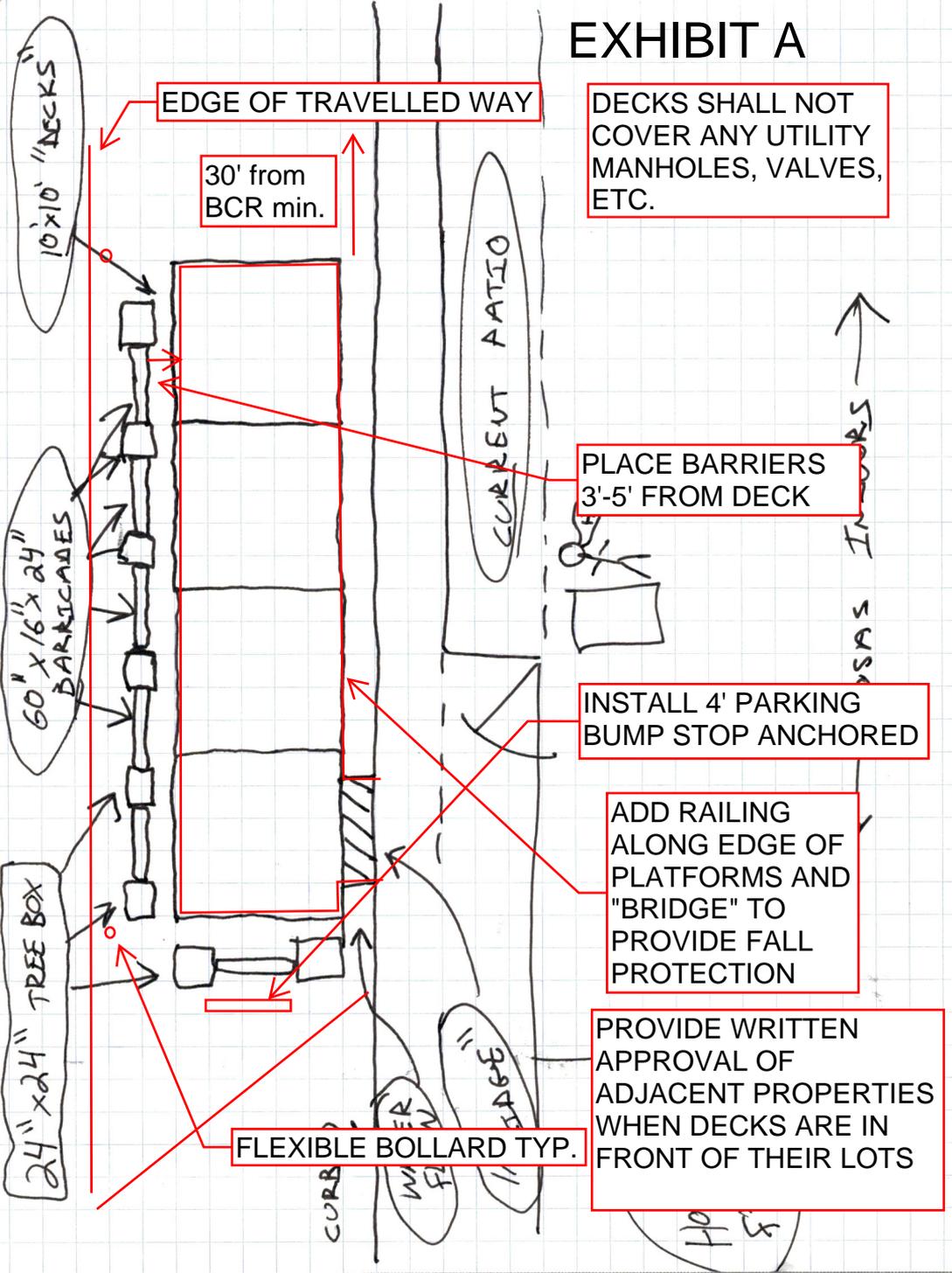
Proposed use for semi-permanent structure is:

- Tables and chairs for restaurant dining
- Small 'side station' for servers/bussers to use and maintain sanitation/cleaning
- Potential to use for waiting area depending on what happens with indoor dining and Covid cases, etc

Objects to be involved in semi-permanent structure:

- Wooden 'decks' to create more of a restaurant vibe
- Minimal signage - if we have any at all it will be temporary and relatively small
- Planters with trees in them will surround the deck and will be quite tall - approx 8-10' tall. They will all be placed at least 30' from the intersection so not to impede visibility
- Some kind of shade element like umbrellas and or shade 'sails' but not to impede visibility for a car traveling westbound because it will be farther from the intersection
- Minimal lighting such as LED Christmas style lighting or 'string lights'
- Water filled barriers around deck
- Flexible bollard and 4' parking bump stop to be installed per Ian Mattingly (product has been approved by him)

EXHIBIT A



EDGE OF TRAVELLED WAY

30' from BCR min.

DECKS SHALL NOT COVER ANY UTILITY MANHOLES, VALVES, ETC.

PLACE BARRIERS 3'-5' FROM DECK

INSTALL 4' PARKING BUMP STOP ANCHORED

ADD RAILING ALONG EDGE OF PLATFORMS AND "BRIDGE" TO PROVIDE FALL PROTECTION

PROVIDE WRITTEN APPROVAL OF ADJACENT PROPERTIES WHEN DECKS ARE IN FRONT OF THEIR LOTS

FLEXIBLE BOLLARD TYP.

10' x 10" DECKS

60" x 16" x 24" BARRICADES

24" x 24" TREE BOX

CURRENT PATIO

ASAS IMPAS

CURB

W/ER

11' STAGE

10' x 5'



CHANGE OF DECLARATIONS ENDORSEMENT - PLEASE READ CAREFULLY.

POLICY NUMBER [REDACTED] PREMIER BUSINESSOWNERS POLICY

NAMED INSURED: [REDACTED]
MAILING ADDRESS: [REDACTED]
PRESCOTT, AZ 86303-3939

AGENT NAME: [REDACTED] 84 26916
AGENT ADDRESS: [REDACTED] 005

POLICY PERIOD: FROM 10-01-19 TO 10-01-20 12:01 A.M. Standard Time
EFFECTIVE DATE OF CHANGE: 07-10-20 12:01 A.M. Standard Time

ADDL PREMIUM \$ 7.00
TOTAL PREMIUM \$ 7.00

NOT A STATEMENT - YOUR BILLING WILL FOLLOW

***** ADDITIONAL INSURED ***** NO. 001000

PREMIUM \$ 7.00

CITY OF PRESCOTT
ADDED NAME
CITY OF PRESCOTT

ADDED OLD ADDRESS
RE: PATIO EXPANSION

ADDED ADDRESS
201 S CORTEZ ST

ADDED CITY
PRESCOTT

ADDED STATE
AZ

ADDED ZIP CODE
863033989

ADDED FORM NUMBER
PB0448

PREMIUM CHANGE

MUNICIPALITY CHANGE

***** ENDORSEMENT *****

ADDED ENDORSEMENT FORM
FORM PB0448 EDITION DATE 1114
A COPY OF THIS FORM IS ATTACHED

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

PREMIER BUSINESSOWNERS LIABILITY COVERAGE FORM

A. The following is added to Section II. WHO IS AN INSURED:

Any person or organization shown in the Schedule of this endorsement is also an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf in the performance of your ongoing operations or in connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to

Section III. LIMITS OF INSURANCE AND DEDUCTIBLE:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits Of Insurance shown in the Declarations; whichever is less.

This endorsement shall not increase the applicable Limits Of Insurance shown in the Declarations.

C. This insurance, including any duty we have to defend "suits", does not apply to:

1. "Bodily injury" or "property damage" that arises out of, in whole or in part, or is a result of, in whole or in part, the active negligence of the additional insured shown in the Schedule of this endorsement.
2. "Personal and advertising injury" that arises out of any independent "personal and advertising injury" offense committed by the additional insured shown in the Schedule of this endorsement.

All terms and conditions of this policy apply unless modified by this endorsement.

SCHEDULE

Name Of Person Or Organization:

CITY OF PRESCOTT
RE: PATIO EXPANSION
201 S CORTEZ ST
PRESCOTT AZ 863033989

Barrier Exemption: an exception to the requirement of barriers surrounding a patio/outdoor serving area may be requested. Barrier exemptions are granted based on public safety, pedestrian traffic, and other factors unique to a licensed premises. List specific reasons for exemption:

Approval Disapproval by **DLLC**: _____ Date: ____/____/____

I, (Print Full Name) _____, hereby swear under penalty of perjury and in compliance with A.R.S. § 4-210(A)(2) and (3) that I have read and understand the foregoing and verify that the information and statements that I have made herein are true and correct to the best of my knowledge.

Applicant Signature: _____

GOVERNING BOARD

After completion, and **BEFORE submitting to the Department of Liquor**, please take this application to your local Board of Supervisors, City Council or Designate for their recommendation. This recommendation is not binding on the Department of Liquor.

Approval Disapproval

Authorized Signature

Title

Agency

Date

DLLC USE ONLY

Investigation Recommendation: Approval Disapproval by: _____ Date: ____/____/____

Director Signature required for Disapprovals: _____ Date: ____/____/____