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CANNABIS REGULATION**

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December 2, 2022

COUNCIL FILE: 21-1083-S1

The Honorable City Council
City of Los Angeles
City Hall, Room 395
Los Angeles, California 90012

Attention: Planning and Land Use Management Committee

Dear Honorable Members:

Pursuant to Council File no. 21-1083-S1 and a request from the Planning and Land Use Management Committee for a further report back on its proposed amendments, the Department of Cannabis Regulation (DCR) transmits this report to provide additional explanation and proposed ordinance language for amendments to Article 4, Chapter X of the Los Angeles Municipal Code (LAMC).

DCR first recommended many of these ordinance amendments in earlier reports released in 2019, 2020, 2021, and April 2022. The October 13, 2022 report was the result of nine months of meetings with stakeholders, licensees, and Council Offices on the status of DCR's regulatory program in the context of the State's provisional license deadline. After March 31, 2023, the State's cannabis agency will no longer accept provisional license applications from Social Equity Applicants. To apply to the State for a provisional license, applicants must have Temporary Approval or an annual license from the City first. On June 30, 2022, the Department of Cannabis Control ceased issuing new provisional licenses to non-social equity applicants. For social equity applicants, this deadline was extended to June 30, 2023. Existing provisional licensees are eligible for provisional license renewal until January 1, 2025 subject to certain restrictions. However, as of January 1, 2026, all licensees must operate under a State-issued annual license. After January 1, 2026, operators without a State-issued annual license will be forced to cease all commercial cannabis activities, even if they have a City-issued license. The City may experience adverse public health and safety impacts associated with loss of licensure and compliance with related requirements and may also see a sharp decline in cannabis tax revenue in 2026 if it does not take proactive steps now to facilitate applicants' transition to the State's annual licensure process. Finally, these recommendations would establish independent City definitions of "Owner" and "Indirect Owner" so that the City's licensing framework is not impacted by changes to the State's regulations or definitions.

SUMMARY OF RECOMMENDED AMENDMENTS SORTED BY CATEGORY

The proposed ordinance language below is included for this Honorable Council's convenience but does not represent the full language of the amendments necessary to effectuate each concept, which may require amendments across multiple LAMC sections in Article 4.

A. Indirect Owner

DCR proposes creating a new definition for "Indirect Owner" to allow greater flexibility in Applicants' business arrangements. This definition would capture individuals who only have an ownership interest in an Applicant or Licensee by virtue of ownership of another entity that has at least a 20% aggregate ownership stake in an Owner of the Applicant or Licensee. The creation of this definition will also streamline DCR's review of ownership disclosure forms and the process for obtaining information and signatures for Applicants and Licensees by clearly delineating between indirect and direct owners when a business has a multilayer or complex ownership structure. This provision is not intended to override or otherwise dilute the provision in LAMC section 104.02 which restricts the max number of licenses a Person may hold for certain license types.

A new definition would be added to LAMC 104.01(a) to read:

"Indirect Owner" means a Person with an ownership interest in an entity that has a direct or indirect ownership interest of at least a 20% aggregate ownership stake or equity interest in an Owner of the Applicant or Licensee, unless the interest is solely a security, lien, profit sharing, or encumbrance. Aggregate means the total ownership interest held individually or through an entity. The amount of indirect ownership in the Applicant or Licensee that is held by any other entity is determined by multiplying the percentage of ownership interest at each level. For example, an individual owning 50% of an entity that owns 50% of a cannabis business would have a 25% aggregate ownership interest in the cannabis business.

Similarly, the current definition of "Owner" in LAMC 104.01(a) would be amended to read:

"Owner" means a Person with at least a 20% ~~aggregate~~ ownership stake or equity interest in the Applicant or Licensee, unless the interest is solely a security, lien, profit sharing, encumbrance or ~~held through another Person. Aggregate means the total ownership interest held individually or through an entity. For example, an individual owning 50% of an entity that owns 50% of a cannabis business would have a 25% aggregate ownership interest in the cannabis business.~~

B. Sunset Date for Original SEIA Verification Requirements

DCR recommends an amendment to specify that SEIAs must be verified under amended eligibility criteria contained in LAMC section 104.20(b) if they submit applications after December 31, 2022. This proposed amendment would sunset the original criteria, previously amended by City Council in 2020.

The following language would be added to LAMC 104.06.1(d)(1) and (e)(1):

Effective December 31, 2022, Type 9 Applicants shall be Social Equity Individual Applicants verified pursuant to Section 104.20(b).

The following language would be added to LAMC 104.06.1(f)(1):

Effective December 31, 2022, non-retail Applicants shall be Social Equity Individual Applicants verified pursuant to Section 104.20(b).

C. Entity Substitutions

DCR recommends the addition of language concerning the entity substitution process in LAMC section 104.03(e). Currently, entity substitutions are limited to Pre-Applications originally filed as sole proprietorships, Licensees, or Social Equity Applicants eligible to participate in the refiling process. DCR suggests language to clarify the following: (1) allow for the transfer of a License from one entity to a new entity; (2) not require a new land-use review when the Business Premises associated with the License is not amended in the same modification request; (3) require the new entity to have a complete Legal Business Entity record before a modification request is considered; and, (4) reduce the processing time to complete the entity substitution process. Entity substitution modification requirements exist in DCR's Rules and Regulations and forms, but not in LAMC section 104.03(e) which contains provisions about other types of modification requests. Therefore, DCR recommends adding a new subdivision LAMC section 140.03(e)(5) to include a description of the process and requirements for entity substitution modifications.

A new subdivision would be added to LAMC 104.03(e) to read:

Entity Substitutions. An Applicant or Licensee may, under specific circumstances, submit a request to substitute the entity associated with the Application or License. Social Equity Applications may be refiled pursuant to Section 104.03(i). Pre-Application Review records filed as sole proprietorships may be converted to a different legal entity type once during the Application process and may not be further amended until a License is issued. Licenses may be transferred to a new entity provided a new Application is filed, all application information, documents or forms are submitted under the new entity, and all required application fees are paid. Any previously issued License shall be canceled before a License is issued to the new entity. The new entity shall not operate until a new License has been issued by DCR. An entity substitution request shall include notarized signatures from the Authorized Agent and, if applicable, the Social Equity Individual Applicant(s). If an Authorized Agent has not been designated, notarized signatures are required from a majority of the Owners that own the Applicant or Licensee entity directly without any intervening entities or persons. If an Owner is an entity, the CEO or President, or equivalent executive position, may sign on behalf of the entity. If the Application or License is subject to the requirements of Section 104.20, the request shall also include a notarized signature from the Social Equity Individual Applicant(s) associated with the Application or License.

D. Successor in Interest as Natural Person

DCR recommends an amendment to require SEIAs to identify a successor-in-interest who is a natural person(s). In the event a SEIA passes away, this would maintain the spirit of the Social Equity Program by ensuring that a deceased SEIAs' interest remains in the control of their individual successors, such as family members, rather than a corporate entity, bank, or other entity which the successor(s) may not control.

LAMC 104.20(a)(2)(ii)(4) would be amended to read:

Successors. The Equity Share shall not be subject to arrangements causing or potentially causing ownership benefits in the Social Equity Applicant or Licensee to go to another in any

circumstance other than after death or incapacity. In the case of death or incapacity, a Social Equity Individual Applicant shall identify **a natural person(s) as** his or her own successor in interest or assignee of their Equity Share. If a Social Equity Individual Applicant dies, the Social Equity Applicant or Licensee will continue to qualify under this section with the requisite Equity Shares so long as the ~~surviving spouse or~~ successor in interest of the deceased Social Equity Individual Applicant inherits or otherwise acquires all of such Individual's ownership interest in the Social Equity Applicant or Licensee. **The natural person(s) may subsequently identify an entity, such as a trust, to hold their interest. Upon the death of the Social Equity Individual Applicant or Licensee, the Social Equity Applicant shall notify DCR within 30 days of their death. Unless more time is allotted by DCR, the Social Equity Applicant shall supply a certified copy of the death certificate and amend all contact information on file with DCR within 60 days.**

E. Clarification of the Abandonment Process

DCR proposes an amendment to LAMC section 104.03(h) to establish additional reasons for abandonment and to restructure the existing provisions. Specifically, DCR suggests adding provisions that establish that an application which is not associated with an active, compliant Business Premises address may be subject to abandonment. This may occur, for example, when an applicant has lost site control of, or terminated their lease at, the relevant Business Premises. If the applicant is not eligible to relocate, abandonment would provide a pathway to refile and an opportunity to restart the licensing process at a new location. Similarly, DCR suggests adding provisions that require Applicants to pass an Initial Inspection within six months of the date their Application is deemed filed or the Temporary Approval Application record may be subject to abandonment. Additionally, existing language prohibits Social Equity Applicants from modifying applications to remove or replace a Social Equity Owner until a License is issued; this provision should be amended to prevent the removal or replacement of any Owner until a License is issued.

LAMC 104.03(h) would be amended to read:

(h) Abandonment.

(1) An Application or modification request may be deemed abandoned if DCR determines, at any time and in its sole discretion, that:

(i) the Application or modification request is incomplete;

(ii) fee payments required under Section 104.19 are not timely paid;

(iii) **the Application does not comply with Section 105.02(c);**

(iv) **the Applicant surrenders the Business Premises listed on their Application;**
or

(v) information, forms, or documents have not been provided within the time allotted by DCR.

(2) Unless another period of time is specified, all required information, forms and/or documents shall be submitted through the DCR Licensing Portal within 30 days, and all fees shall be paid within 30 days of the date of the invoice issuance. DCR shall not refund fees for an abandoned Application or modification request.

F. Licensee Relocation after Temporary Approval

DCR also recommends an amendment to Section 104.03(e)(1) to clarify the rules when a Licensee requests to relocate to a new Business Premises after receiving Temporary Approval or a License at the original Business Premises. Specifically, DCR suggests a rule that would make any Temporary Approval and/or License issued to the original Business Premises location expire after 180 calendar days in order to ensure Licensees are not conducting commercial cannabis activity concurrently at more than one location, and to facilitate the maintenance of accurate and up-to-date information on DCR's Licensing Map for prospective applicants.

LAMC 104.03(e)(1)(v) would be amended to read:

Relocations After the Issuance of a License~~Temporary Approval~~. If a Licensee has been issued Temporary Approval or a License for the location from which it seeks to relocate, the Licensee shall request cancellation of its Temporary Approval or License at that location before Temporary Approval or a License at the new Business Premises location may be issued. ~~The Applicant or Licensee Person(s)~~ shall meet the ~~Temporary Approval and/or~~ License requirements at the new location. ~~Any Temporary Approval and/or License issued at the prior Business Premises location shall expire no later than 180 calendar days from the date the Business Premises Relocation fee is paid.~~~~new Business Premises is deemed eligible for further processing.~~

G. P3RR1 Businesses Ineligible due to Sensitive Uses

DCR proposes an amendment to LAMC section 104.06.1(b)(7) to allow DCR to conduct a second review of Phase 3 Retail Round 1 applications previously deemed ineligible due to proximity to a Sensitive Use, as defined in LAMC 105 *et seq.* LAMC 105 *et seq.* was substantially amended in July 2021, including changes to the data sources used to identify Sensitive Uses and the timing of DCR's land use review, as well as the modification provisions added in 2020. This amendment would allow Phase 3 Retail Round 1 Applicants to benefit from the updated ordinance amendments which were enacted after the Phase 3 Retail Round 1 application window closed.

LAMC 104.06.1(b)(7) would be amended to read:

DCR shall, subject to review of any applications previously deemed ineligible as described below, process Applications up to and including DCR Record No. LA-C-19-310245-R-APP from the list published by DCR titled "Phase 3 Retail Round 1 Submissions (09/03/19, 10 am to 09/17/2019 10 am)", dated September 26, 2019. Notwithstanding any prior notice and/or action by DCR, Applicants that were deemed ineligible for further processing due to a Community Plan Area having reached Undue Concentration on or after September 3, 2019, the failure to submit proof of deposit, ~~or due to proximity to a sensitive use, subject to relocation,~~ may be deemed eligible for further processing if all other requirements are met. Applications deemed eligible for further processing under Section 104.06.1(b)(6) as of January 1, 2020, and Applications deemed eligible for further processing under Section 104.06.1(b)(7) after January 1, 2021, shall not be included in the calculation of Undue Concentration, as defined in Section 104.01(a)(49).

H. Deletion of or Changes to Certain Definitions (Undue Concentration)

DCR also recommends changes to the definition of “Undue Concentration.” The current definition relies on the number of *licenses issued* in a Community Plan Area to determine whether that Community Plan Area has reached the Undue Concentration limit; therefore, when a Community Plan Area reaches Undue Concentration, DCR cannot issue a license to any applicant with a pending application in that Community Plan Area, no matter how close the applicant may be to a license or how much the applicant has invested in the relevant Business Premises property. Moving the threshold to *applications received* from *licenses issued* will protect the interests of applicants who have made significant progress in the licensing process at the time Undue Concentration is reached.

LAMC 104.01(a)(49) would be amended to read:

“Undue Concentration” means the Applicant's Business Premises is located within a higher ~~cannabis license Application~~/population ratio within the community plan based on the American Community Survey, updated annually, than the following: ratio of one ~~licenseApplication~~ per 10,000 residents for Retailer (Type 10); ~~ratio of one license per 7,500 residents for~~ or Microbusiness (Type 12); a maximum aggregate number of 15 ~~LicensesApplications~~ at a ratio of one ~~LicenseApplication~~ for every 2,500 square feet of allowable cultivated area for Cultivation (Types 1A, 1C, 2A, 3A, and 5A); and ratio of one ~~licenseApplication~~ per 7,500 residents for ~~volatile solvent Manufacturing~~ (Type 7). ~~The following Persons are not subject to a finding of Undue Concentration: (1) an EMMD; (2) an Applicant eligible for processing under Section 104.08; (3) Social Equity Individual Applicants selected through an Application lottery pursuant to Section 104.06.1(c)(5) and deemed eligible for further processing pursuant to Section 104.03(a); and, (4) a refiled Application pursuant to Sections 104.03(i) and 104.03(j). An EMMD is not subject to a finding of Undue Concentration. An Applicant eligible for processing under Section 104.08 is not subject to a finding of Undue Concentration. A Microbusiness involved in on-site retail counts towards the Undue Concentration License limits applied to Retailer (Type 10) Licenses, and a Microbusiness involved in Cultivation counts towards the Undue Concentration limits applied to Cultivation Licenses (Types 1A, 1C, 2A, 3A, and 5A).~~ “Application” for the purposes of Undue Concentration means an annual License or Temporary Approval Application, excluding a Pre-Application Review record.

I. Minor Typographical Changes

DCR recommends a number of minor typographical changes for consistency. For example, with the removal of the definition for “Employee,” all instances of “Employee” should be amended to “employee.” Similarly, DCR’s Rules and Regulations refer to the most egregious violations as “Major” but LAMC section 104.13 refers to this category as a “Serious” violation. Similarly, subsection B of the “Household Size” definition should be clarified to state “All household members who are under 18 years of age must be the legal dependent or emancipated minor of an adult household member, as claimed on the most recent income tax return”. Similarly, clarifications to the definition of “Licensee” require a corresponding amendment to LAMC section 104.04 to specify that a final inspection and community meeting must occur before the issuance of an annual license. LAMC section 104.03 should also be amended to reflect new record types, as well as the modification processes for each record type. For example, Social Equity, Owner, and Primary Personnel documents, forms, and information are stored in Legal Entity records rather than Temporary Approval records. This change was implemented to eliminate duplicative review and streamline the Application process. LAMC section 104.11(m) should also be amended to change the semiannual reporting concerning workforce requirements from January and July to “on or before the last day of February” to coincide with the existing renewal process and requirements, thereby simplifying the reporting process for licensees.

J. Sunset Date for the Issuance of Temporary Approval

DCR recommends establishing a sunset date in LAMC Section 104.06(d) for the City's Temporary Approval process to coincide with the end of the State's provisional licensing process. DCR also recommends setting corresponding expiration dates for the final date that Temporary Approvals may be renewed based on the State's deadline. Establishing these recommended deadlines will ensure that the City's Licensees move through the City and State annual licensing processes in a timely manner to comply with the State's deadline. Without such deadlines, some Licensees may lose the ability to conduct commercial cannabis activity when their State provisional licenses expire.

Several new subdivisions would be added to LAMC 104.06(d) to read:

4. DCR shall cease accepting new Temporary Approval Applications from general Applicants by December 31, 2022. DCR may accept Temporary Approval renewal Applications from general Applicants that are timely filed during the renewal period through February 28, 2025.
5. DCR shall cease accepting new Temporary Approval Applications from Social Equity Applicants by December 31, 2023. DCR may accept Temporary Approval renewal Applications from Social Equity Applicants that are timely filed during the renewal period through February 28, 2025.
6. Temporary Approval Licenses issued for calendar year 2025 may not be renewed and shall expire on December 31, 2025 after 11:59pm.
7. Temporary Approval Applications abandoned for any reason after July 1, 2023, shall be refiled as an Annual Application.

Additional amendments to LAMC sections 104.03 and 104.06 are also necessary to ensure the application processes require Applicants with a status of "Local Compliance Underway" to meet the current year requirements, including but not limited to updated forms or documents, to receive Temporary Approval or an Annual License. Finally, DCR recommends an amendment to LAMC sections 104.07(c) and 104.08(b) to clarify that Phase 1/EMMD Applicants and Phase 2 Applicants have always been required and shall continue to be required to go through the Temporary Approval Application process by submitting all required information, forms, and documents until the proposed Temporary Approval sunset date. This amendment will ensure that the Temporary Approval requirements are the same across Phase 1, Phase 2, and Phase 3 Applicants.

K. Expansion of the Refiling Process

DCR suggests an amendment to expand the refiling process to allow Licensees with an abandoned Temporary Approval *or* annual License application to refile, as well as establish a process for a new Application to be submitted for expired Licenses within three years of the License expiration date. Currently, LAMC sections 104.03(i) and 104.03(j) allow only an applicant with an abandoned Temporary Approval Application to refile a new application. This proposed amendment would expand the refiling process to allow Applicants participating in the annual licensing process who are not issued an annual license due to unpaid fees or incomplete forms, among other reasons, to refile their annual Application after the initial Applicant is abandoned. Likewise, an amendment is necessary to clarify that, after January 1, 2023, a Temporary Approval Application must have been deemed filed, *i.e.* all documents and fees were submitted, for the application to be eligible for the refiling process. This will ensure that only applications that were actually *filed* are eligible to *refile*, and eliminate applicants from

the refiling process that have not made substantial efforts to comply with the licensing requirements. DCR also proposes an amendment to require that applications abandoned three months after the end of State's provisional licensing process must be refiled as Annual Applications rather than as Temporary Approval Applications. Lastly, expanding the refiling process to include expired licenses is consistent with the intent of LAMC Section 104.12(a) which states, in the event the License is not renewed prior to the expiration date, the Licensee shall cease all Commercial Cannabis Activity until such time that the Licensee is issued a new License from DCR and a license from the State of California.

LAMC 104.03(i) would be amended to read:

~~An Applicant subject to the provisions of Section 104.20 with a Temporary Approval Application deemed abandoned under Section 104.03(h) after January 1, 2022, may refile an Application subject to the requirements of this subsection. Applications abandoned, for any reason, after November 1, 2022, may not be refiled unless the Application was deemed filed pursuant to Section 104.03(b).~~ The Social Equity Individual Applicant associated with a Social Equity Applicant that has an Application deemed abandoned under Section 104.03(h) after January 1, 2022, may refile an Application subject to the requirements of this subsection. If more than one Social Equity Individual Applicant is listed on the initial ~~Temporary Approval~~ Application, the refiled Application shall be submitted by the original Social Equity Applicant entity. The refiling process shall be initiated through the DCR Licensing Portal within one (1) calendar year of the date DCR notifies the Social Equity Applicant by electronic mail that the original ~~Temporary Approval~~ Application is deemed abandoned.

LAMC 104.03(j) would be amended to read:

~~An Applicant not subject to the provisions of Section 104.20 with a Temporary Approval Application deemed abandoned under Section 104.03(h) after January 1, 2022, may refile an Application subject to the requirements of this subsection.~~ An Applicant not subject to the provisions of Section 104.20 with a ~~Temporary Approval~~ Application deemed abandoned under Section 104.03(h) after January 1, 2022, may refile an Application subject to the requirements of this subsection. Applications abandoned, for any reason, after November 1, 2022, may not be refiled unless the Application was deemed filed pursuant to Section 104.03(b). The refiling process shall be initiated through the DCR Licensing Portal within one (1) calendar year of the date DCR notifies the Applicant by electronic mail that the original ~~Temporary Approval~~ Application is deemed abandoned.

L. *New Section Concerning Annual Licenses*

DCR proposes the creation of a new subsection concerning annual licensing requirements as DCR prepares to begin the annual licensing process in early 2023. This new section would include establishing the process for annual licensing, including environmental review and other similar requirements. In this new subsection, it should also be established that an annual license may be suspended or revoked for the same reasons as a Temporary Approval and using the same procedures. This amendment is necessary to ensure the same safety and permit requirements are required for annual licensees as Temporary Approval holders prior to DCR beginning the annual license process for the first time.

A new subsection LAMC.06(f) would be added to read:

(f) Annual Licenses.

1. DCR shall consider an annual License Application filed following: (i) a determination of eligibility pursuant to Section 104.03(a); (ii) the submission of all required and completed annual License information, forms, and documents to DCR's Licensing Portal; and (iii) and the payment of the applicable application fee(s) for each Commercial Cannabis Activity pursuant to Section 104.19. An Applicant shall submit all required information, forms, and documents pursuant to the Rules and Regulations. The applicable Annual License Application Fee(s) are due within 30 days from the date of the invoice. If the fees are not paid within the allotted time, the Application shall be deemed abandoned pursuant to Section 104.03(h). An Applicant must obtain all necessary permits, licenses, or other authorizations required by law from the City, State or other public agencies. The annual License Application process does not waive or otherwise circumvent other City or State requirements or necessary permits from the City, State, or other public agencies, including, but not limited, to, a Certificate of Occupancy, permit or authorization of the Los Angeles Fire Department, health permit from the County of Los Angeles, or authorization from the State. If at any time during the processing of an annual License Application or after the issuance of a License it is discovered that an annual License Application has been improperly prepared or required information, forms or documents have not been submitted in accordance with this Code or the Rules and Regulations, upon notification to the Applicant, processing of that annual License Application shall be suspended until the annual License Application has been corrected or the required information, forms or documents are provided. Material misrepresentations, false statements, or the failure to disclose a material fact in an annual License Application may result in the denial of the annual License Application. All Licensees shall obtain a permit from the Los Angeles County Department of Public Health. If the Licensee is engaged in Retail Storefront Commercial Cannabis Activity, the Licensee shall also obtain an emblem placard as required in Section 104.23.

2. Annual license applications shall be processed in accordance with Section 104.06(a)-(c). Annual license applications may be denied for any reason, by DCR or the Commission, for the reasons specified in Section 104.06(g).

3. DCR may immediately suspend a License without a hearing based upon: (1) notice from another City, State, or other public agency that a Licensee's use of or conduct at the Business Premises poses an imminent threat to life or public safety; (2) notice to DCR or DCR's discovery that the Licensee is conducting Commercial Cannabis Activity without all necessary permits, inspections or similar clearances to operate from another City, State or other public agency; or (3) notice from the State or DCR's discovery that the Licensee is conducting Commercial Cannabis Activity without an active State License for that Commercial Cannabis Activity. DCR's written findings shall conform with Section 104.13(c). After suspension, the Licensee may request an administrative hearing pursuant to Section 104.14. An Applicant may not conduct Commercial Cannabis Activity while a License is suspended.

(i) If DCR suspends a License because the Licensee is conducting Commercial Cannabis Activity at Business Premises without authorization from the State or without a required permit inspection or clearance to operate from another City, State or public agency, DCR may reinstate the License if the Licensee provides evidence of the relevant State License(s) or required permit, inspection or clearance to operate, or if such a showing is made during an administrative hearing. DCR shall not reinstate the license if a utility disconnection, padlocking or other enforcement action occurs during the period of suspension that renders the Business Premises ineligible under Section 104.03(a)(3).

3. DCR may issue a Notice of Violation based upon notice from another City, State, or other public agency, including but not limited to the Los Angeles Fire Department or Department of Building and Safety, that the Licensee has not taken the necessary corrective action to cure a violation, notice to correct, or other form of non-compliance within 90 days, or other time allotted by the citing agency. DCR's written findings shall conform with Section 104.13(c). The Licensee may request an administrative hearing pursuant to Section 104.14.

4. DCR may issue a Notice of Violation based upon evidence that a License was procured by fraud, misrepresentation, deceit, or material misstatement of fact in the application for licensure. DCR's written findings shall conform with Section 104.13(c). The Licensee may request an administrative hearing pursuant to Section 104.14.

Similarly, DCR recommends an amendment to LAMC section 104.06(b)(1) to clarify the annual licensing approval process for non-retailer activity in a Business Premises less than 30,000 sq. ft. and/or non-storefront retailer activity. Currently, this section does not contain a requirement for DCR to issue written findings based on evidence in the record when denying these application types. DCR, therefore, suggests mirroring the language that appears in LAMC section 104.06(a) for the retail annual licensing process. DCR also proposes an amendment to LAMC sections 104.03 and 104.06 to clarify that all records must be updated or renewed annually. Requiring all Applicants to stay current on document, form, and information requirements ensures that all records are maintained to the same standard, the form and manner in which the information is stored is consistent, the record maintains its compatibility with planned system enhancements, and facilitates DCR's ability to accurately manage and report on all active records.

M. Authorize Certain Applicants to Participate in the Annual Renewal Process

Records with local authorization under LAMC section 104.08 are required to renew their status annually. DCR proposes adding or moving this requirement to LAMC section 104.12, amending the term "local authorization" to "Local Compliance Underway," and continuing to require LAMC section 104.08 records to renew their "Local Compliance Underway" status annually until such time a License is issued and the Licensee has the option to renew their License. Lastly, DCR has previously provided fee deferrals to Applicants that were required to renew their record before a License was issued. Currently, deferred fees are due within six months or at the time of Licensure. Currently, most Applicants have exceeded the six-month limit; therefore, all previously deferred fees are due before Temporary Approval is issued and an Applicant's application may be deemed abandoned due to unpaid fees if the Applicant fails to pay all outstanding fees within 30 days. DCR recommends adding a third option to allow the deferred fees to be paid within one year of the issuance of a license. Deferred fees that are not timely paid may be subject to late fees and must be paid prior to the renewal of a License consistent with LAMC section 104.12(c).

N. Progressive Compliance Amendments

DCR proposes comprehensive amendments to LAMC Section 104.13, which has not been substantially amended since 2018. These proposed amendments would reorganize existing provisions, establish a progressive compliance enforcement strategy, and facilitate efforts by DCR's newly formed Compliance and Enforcement Division to encourage compliance with DCR's Rules and Regulations for licensed businesses. For example, these amendments include the addition of a new "Notice to Correct" procedure, which may be used for minor corrections required of the Licensee, in lieu of a Notice of Violation which carries higher penalty fees. Notices to Correct may be issued in certain situations where the non-compliance could be corrected by updating the Licensee's records with DCR, such as when modifications to the License were made without prior DCR approval. DCR may issue a NOV based

upon evidence that a License was procured by fraud, misrepresentation, deceit, or material misstatement of fact in the Application for licensure. Other proposed amendments would provide a mechanism for DCR to suspend or revoke a License and/or reinstate a License if suspended, and establish factors DCR must consider when suspending or revoking a License.

LAMC 104.13 would be amended to read:

(a) **Violations of this Article.** Within five years of discovering a Licensee ~~or owner of Business Premises~~ has violated this article, the Rules and Regulations, or a License condition (violation), DCR may issue a **Notice to Correct (NTC)**, **Notice of Violation (NOV)**, **Notice of Suspension (NOS)**, or **Notice of Revocation (NOR)**. DCR may impose any administrative penalties or order corrective actions as provided in Section 104.13(b). Any action of DCR does not preclude any enforcement agency from taking its own enforcement action for violation of any local, state or federal law or regulation.

(b) Administrative Penalties and Corrective Actions.

1. **Administrative Penalties**~~ines~~: In addition to any of the remedies and penalties set forth in this article or any other law, DCR may impose administrative penalties on a Licensee or owner of a Business Premises using the violation classes and fine amounts specified below in Section 104.19(i). The types of violations associated with each class shall be delineated in the Rules and Regulations. ~~Repeat Minor or Moderate violations that occur within a one-year period and result in an administrative fine may result in escalation to a higher class of violation. Penalties associated with Minor, Moderate and Major violations shall be issued pursuant to Section 104.19(i).~~

~~(i) "Minor" violation — amount equal to 50% of the current Cannabis License fee for each and every violation;~~

~~(ii) "Moderate" violation — amount equal to 150% of the current Cannabis License fee for each and every violation; and~~

~~(iii) "Major/Serious" violation — amount equal to 300% of the current Cannabis License fee for each and every violation.~~

2. **Reduction in Penalties or Extension of Time to Comply:** DCR, at its discretion, may impose a reduced administrative ~~penalty or consider an extension of time to comply with an NTC or NOV~~, including the payment of any associated penalties after considering factors, including: (1) the extent of harm or potential harm caused by the violation; (2) the nature and persistence of the violation; (3) the length of time over which the violation occurs; (4) the history of past violations; (5) any mitigating evidence; and (6) the Licensee's or owner of the Business Premises' financial resources.

3. ~~**License Suspension or Revocation or More Restrictive License Conditions:**~~ In addition to any of the remedies and penalties set forth in this article or any other law, DCR ~~may suspend or revoke a License by issuing a n Notice of Suspension (NOS) or Notice of Revocation (NOR) in accordance with subsections (e) and (f) or~~ impose more restrictive License conditions after considering factors, including: (1) the extent of harm or potential harm caused by the violation; (2) the nature and persistence of the violation; (3) the length of time over which the violation occurs; (4) the history of past violations; and (5) any mitigating evidence.

4. **Corrective Action:** In addition to any of the remedies and penalties set forth in this article or any other law, DCR may order a Licensee or Business Premises owner to undertake corrective action to remedy the violation or prevent future violations **by issuing a NTC or NOV** in

accordance with subsections (c) and (d).

~~5. **Reinstatement:** DCR may reinstate a Licensee's authorization to conduct Commercial Cannabis Activity after suspension if the Licensee completes any corrective action(s) to remedy the violation, or if a hearing officer orders reinstatement following an administrative hearing authorized by Section 104.14. DCR shall issue a Letter of Reinstatement (LOR) in accordance with subsection (g). (Added by Ord. No. 187,095, Eff. 7/1/21.)~~

~~6. **Revocation:** DCR's determination to revoke a license is final and not appealable, unless authorized by Sections 104.06(d)(1) or 104.06(f)(3).~~

(c) Notice to Correct (NTC)

1. DCR may issue a NTC if DCR discovers that a Licensee has made modifications to the License without prior approval by DCR, including but not limited to: (1) modifications to or failure to submit fictitious name or DBA; (2) modifications to or failure to submit Owners and/or Primary Personnel; and (3) any other violation of the Rules and Regulations that DCR deems appropriate in its sole discretion.

2. The NTC shall contain all of the following:

(i) a brief description of the unapproved modification or violation;

(ii) a brief description of the corrective action required; and

(iii) a timeframe in which the Licensee shall take corrective action.

3. DCR may issue a NOV if the Licensee does not comply with a NTOC within 30 days. A Licensee may request an extension pursuant to Section 104.13.

(d) Notice of Violation (NOV).

1. DCR may issue a NOV for any violation of the Rules and Regulations or the LAMC. DCR shall issue a NOV **by electronic mail or by mail to the Licensee.** The NOV shall contain all of the following:

(i) a brief description of the violation;

(ii) a brief description of and rationale for the administrative penalties and corrective action, if any, imposed; and

(iii) a timeframe in which the Licensee or owner of the Business Premises shall take corrective action, if any, and comply with the administrative penalties, if any, which shall not be sooner than 15 days from the date of mailing of the NOV.

2. The NOV shall that the Licensee may request an administrative hearing, pursuant to Section 104.14, within 15 days of the date DCR sent the NOV by electronic mail. The administrative hearing shall be deemed waived if the Licensee fails to file a timely request for an administrative hearing. A request for an administrative hearing shall be deemed filed when the request for an administrative hearing is submitted to DCR and the relevant appeal fees pursuant to Section 104.19 are timely paid.

3. The NOV shall be final and effective 15 days after the date the NOV was sent by electronic mail to the Licensee if no hearing was timely requested. DCR shall issue an invoice for the associated administrative penalty or fine, if any, which shall be due 30 days from the date the invoice was issued.

4. If an appeal is timely filed, the determination issued by the hearing officer shall be final and effective on the date determination sent by electronic mail to the Licensee. The determination may deny the appeal, grant the appeal, or deny or grant in part, including any penalties associated with the violation(s). An invoice for outstanding penalties or fines associated with the violations shall be sent by electronic mail with the final determination and shall be paid within 30 days of the date the invoice was issued, unless otherwise specified in the hearing officer's determination. Unless otherwise specified in the hearing officer's determination, any corrective action required of the Licensee shall be completed within 30 days of the date the final determination is sent by electronic mail to the Licensee.

5. If, after a NOV becomes final and effective, a Licensee or owner of a Business Premises fails to comply with any administrative penalties and/or corrective action in the NOV, DCR may take one or more of the following actions: (1) denial of a License renewal; (2) imposition of more restrictive License conditions; (3) issuance of another or escalating NOV; or (4) suspension or revocation of a License.

6. **Stipulated Agreements.** Prior to or after issuing an NOV, DCR, at its discretion, may enter into a written agreement with a Licensee or owner of a Business Premises whereby the Licensee or owner of a Business Premises stipulates to committing a violation in exchange for a negotiated administrative penalty or corrective action, if any. If a Licensee or owner of a Business Premises violates a stipulated agreement, DCR may issue or re-issue an NOV and impose any administrative penalties authorized under Section 104.13(b).

(e) License Suspension or Revocation

1. In addition to any of the remedies and penalties set forth in this article or any other law, DCR may suspend or revoke a License by issuing a Notice of Suspension (NOS) or Notice of Revocation (NOR) after considering factors, including: (1) the extent of harm or potential harm caused by the violation; (2) the nature and persistence of the violation; (3) the length of time over which the violation occurs; (4) the history of past violations; and (5) any mitigating evidence.

2. DCR's determination to revoke a license is final and not appealable.

3. Unless authorized by Section 104.14, DCR's determination to suspend a license is final and not appealable. DCR may, however, reinstate a Licensee after suspension if the Licensee completes any corrective action(s) to remedy the violation, or if a hearing officer orders reinstatement following an administrative hearing authorized by Section 104.14. DCR shall issue a Letter of Reinstatement (LOR) if the License is reinstated.

(f) Administrative Hold. To prevent destruction of evidence, illegal diversion of Cannabis or a Cannabis product, or to address a potential threat to the environment or public safety, DCR may order an administrative hold of Cannabis or a Cannabis product. DCR shall give written notice, by mail, of the administrative hold to the Licensee and shall provide a description of the Cannabis and/or Cannabis product subject to the administrative hold, along with a statement for the basis of issuing the administrative hold. Within 24 hours of receipt of the notice of administrative hold, the Licensee shall physically segregate all applicable Cannabis and/or Cannabis products subject to the hold and shall safeguard and preserve the subject property as required in the notice and the Rules and Regulations.

Following the issuance of a notice of administrative hold to the Licensee, DCR shall identify the Cannabis and/or Cannabis product subject to the administrative hold in the State'sDCR's track-and-trace system. While the administrative hold is in effect, the Licensee is restricted from selling, donating, transferring, transporting, or destroying the administratively held property. Nothing herein shall prevent a Licensee from the continued possession, cultivation, or harvesting of Cannabis subject to the administrative hold. During the hold period, all Cannabis and/or Cannabis products subject to an administrative hold shall be put into separate batches. Nothing herein shall prevent a Licensee from voluntarily surrendering Cannabis and/or a Cannabis product that is subject to an administrative hold. The Licensee shall identify the Cannabis and/or Cannabis product being voluntarily surrendered in the State'sDCR's track-and-trace system. Voluntary surrender does not waive the right to an administrative hearing pursuant to Section 104.14 within 15 days of the date of mailing of the written notice by DCR.

O. *Standalone Denial Reason Section*

DCR suggests the creation of an independent section compiling all reasons for denial of a license. Currently, reasons for denial of a license exist in several different sections scattered across Article 4. This proposal would consolidate all reasons for denial into a single newly created section, LAMC section 104.06(g), and clarify that an application or license may be denied for these reasons at either the Temporary Approval stage or during the annual licensing process. This would provide clarity in the application process and help inform prospective applicants in advance of entering the licensing process.

A new subsection LAMC 104.06(g) would be amended to read:

(g) Reasons for Denial of a License

1. DCR may deny, with no hearing and based upon written findings and evidence in the record, the issuance of Temporary Approval or an annual License for any of the following reasons:

(i) The Applicant's Business Premises is substantially different from the diagram of the Business Premises submitted by the Applicant, in that the size, layout, location of common entryways, doorways, or passage ways, means of public entry or exit, or limited-access areas within the Business Premises are not the same;

(ii) The Applicant denied DCR employees or agents access to the Business Premises;

(iii) The Applicant made a material misrepresentation or false statement on the application, or knowingly failed to disclose a material fact or any documentation required by the Department;

(iv) The Applicant failed timely to provide DCR with additional requested information, including forms or documents;

(v) The Applicant was denied a license, permit or other authorization to engage in Commercial Cannabis Activity by any state or other local licensing authority due to any illegal act or omission of the Applicant;

(vi) Issuance of a License would create a significant public safety problem as documented by a law enforcement agency;

(vii) The Applicant's Business Premises is located in a Community Plan Area which has reached Undue Concentration, unless the City Council has adopted written findings

that approval of the License application would serve public convenience or necessity, supported by evidence in the record;

(viii) The Applicant failed to adhere to the requirements of this article or the Rules and Regulations;

(ix) The Applicant engaged in unlicensed Commercial Cannabis Activity in violation of Section 104.15;

(x) The Applicant's Business Premises was the site of Unlicensed Commercial Cannabis Activity, in violation of Section 104.15, on or after January 1, 2018;

(xi) Temporary Approval has been revoked; or

(xii) The Applicant failed a Business Premises inspection by DCR or the County Department of Public Health.

2. DCR may deny, with no hearing and based upon written findings and evidence in the record, the issuance of a Temporary Approval or License if the Applicant fails to meet any of the requirements of Article 5 of Chapter X of this Code, or if the Business Premises is ineligible under Section 104.03(a)(3).

3. DCR may deny, with no hearing and based upon written findings and evidence in the record, the issuance of a Temporary Approval or License if the Applicant is ineligible under Section 104.03(a)(1) or (2).

4. If the Application is subject to Section 104.20, DCR may deny, with no hearing and based upon written findings and evidence in the record, the issuance of a Temporary Approval or License if the Applicant fails to comply with any requirement in Section 104.20.

P. Revisions to the Mandatory Requirement Section

DCR suggests updating LAMC section 104.11, which sets forth mandatory requirements for all licensees. The vast majority of this section has not been updated since it was originally enacted in 2017 and therefore contains outdated references to State requirements, or provisions that are now duplicative with DCR's Rules and Regulations.

LAMC 104.11(e), (h), (l), (o), and (p) would be removed and the remaining subdivisions renumbered. Various subdivisions of LAMC 104.11 would be amended to read:

(b) A ~~Type 10~~ License for on-site retail sales, Type 10 and/or Type 12, must be prominently displayed at the Business Premises in a manner that makes it readable from the exterior of the Business Premises.

(e) Cannabis, Cannabis Goods, and Cannabis-related associated with a License or Licensee's Business Premises shall not be considered "Drug paraphernalia" as defined in LAMC Section 45.19.5.

(g) An Applicant and Licensee shall be subject to inspection, investigation or audit by DCR or its agents, with no notice required, to determine compliance with this article. An inspection, investigation or audit is a review of any books, records, accounts, inventory, or onsite operations

specific to the Business Premises and License.

2. DCR and its agents may conduct an on-site inspection prior to issuing a new or renewal License, ~~or for the purpose of a compliance inspection verification resulting from a complaint or investigation~~, in accordance with the requirements of the State of California and the Rules and Regulations. DCR may record the inspection, investigation, or audit.

(m) A Licensee shall make a good-faith effort to have no less than 30% of the weekly hours of the Licensee's workforce performed by eEmployees whose primary place of residence is within a three mile radius of the Business Premises. A Licensee shall make a good-faith effort to have no less than 10% of the weekly hours of the Licensee's workforce performed by eEmployees who are Transitional Workers. Transitional Worker means a person who, at the time of starting employment at the Business Premises, resides in an Economically Disadvantaged Area or Extremely Economically Disadvantaged Area, as those terms are defined in Section 11.5.6 of this Code, and faces at least two of the following barriers to employment: (1) being homeless; (2) being a custodial single parent; (3) receiving public assistance; (4) lacking a GED or high school diploma; (5) having a criminal record or other involvement with the criminal justice system; (6) suffering from chronic unemployment; (7) emancipated from the foster care system; (8) being a veteran; or (9) over the age of 65 and financially compromised. At a minimum, a Licensee is required to contact local community-based organizations, City of Los Angeles Work Source Centers, and other such similar organizations to facilitate job outreach, development, and placement services. A Licensee is required to provide a detailed semiannual report ~~on or before the final day of February~~~~the first business day of January~~~~and the first business day of July~~ every year that provides evidence of its outreach efforts, including the number of persons interviewed, and details on who was hired to satisfy the good-faith effort requirement.

(n) All Licensees shall obtain a permit from the Los Angeles County Department of Public Health. If the Licensee is engaged in Retail Storefront Commercial Cannabis Activity, the Licensee shall also obtain an emblem placard as required in Section 104.23.

Q. Clarification of Appeals to Hearing Officers, Commission, and City Council

DCR suggests comprehensive amendments to LAMC section 104.10, which has not been updated since 2018 and therefore contains language somewhat inconsistent with other, more recently-updated sections. DCR suggests restructuring Section 104.10 to create separate subsections that set forth clear rules concerning each type of appeal and its relevant timing considerations.

LAMC 104.10 would be amended to read:

(a) Appeals – Generally.

1. ~~Unless otherwise specified, an appeal as authorized in Section 104.06, 104.07 or 104.08~~ must be filed with DCR within 15 days of the date of the mailing of the written decision being appealed ~~by DCR or the Commission (lower level decision maker)~~. The request for an appeal shall set forth the specific basis upon which the appellant claims there was an error or abuse of discretion by the lower level decision maker. Any appeal not filed within the 15-day period shall be rejected as untimely. The lower level decision maker shall transmit to the appellate body the appeal, the file of the matter, along with any report if one was prepared responding to the allegations made in the appeal.

~~2. The Commission shall hold a public hearing to consider an appeal as authorized in Section 104.06 within 60 days of the Commission's receipt of the appeal. DCR shall provide notice of a~~

~~Commission public hearing under this subsection pursuant to Section 104.05(b). The City Council shall hold a public hearing to consider an appeal of a Commission decision as authorized in Section 104.06 within 15 City Council meeting days of City Council's receipt of the appeal. Notwithstanding the notice requirements in Section 104.05(b), no later than 5 days prior to any City Council hearing under this subsection, DCR shall provide notice of the hearing via email to the appellant's agent for service of process and all Persons on DCR's Interested Party Notification list.~~

~~3. An administrative hearing officer shall hold a hearing to consider an appeal as authorized in Section 104.07 or 104.08 within 60 days of the date DCR receives the request for an administrative hearing. An administrative hearing under this subsection shall be conducted in the manner specified in Section 104.14.~~

~~24. The time for holding any hearing required under this section may be extended by mutual agreement between the appellate body and the appellant. Failure of the appellate body to act within the time period allowed shall be deemed a denial of the appeal. If the appellate body is the Commission, DCR shall have the authority to extend the time on behalf of the Commission.~~

~~35. The appellate body may consider the decision and record before the lower level decision maker and any new written information and oral testimony timely provided to the appellate body. The appellate body shall, however, rule on the record and evidence de novo, substituting its own judgment for that of the lower level decision maker without deferring to the lower level decision maker's findings and determinations. The appellate body may reverse or modify, in whole or in part, any decision of the lower level decision maker, including any penalties assessed by the lower level decision maker. The appellate body shall make the same written findings as required to be made by the lower level decision maker, supported by evidence in the record.~~

~~46. The appellate body shall mail its determination on the appeal within 30 days of the closure of the hearing on the appeal. The appellate body shall issue its decision on the appeal within 30 days of the closure of the hearing on the appeal. Failure of the appellate body to issue a timely determination shall be deemed a denial of the appeal.~~

~~5. If there are no further appeals available, a determination issued by an appellate body is final and effective on the date of mailing the determination .~~

(b) Appeals to Administrative Hearing Officers

- ~~1. A request for an administrative hearing may be filed for the matters listed in Section 104.14(a).~~
- ~~2. An administrative hearing officer shall hold a hearing to consider an appeal as authorized in Section 104.07 or 104.08 within 60 days of the date DCR receives the request for an administrative hearing.~~
- ~~3. Administrative appeal hearings shall be conducted in the manner specified in Section 104.14.~~
- ~~4. There is no further appeal to the Commission or City Council of a hearing officer's determination. A final determination by an administrative hearing officer shall exhaust all administrative remedies.~~

(c) Appeals to the Commission.

- ~~1. A request for an appeal to the Commission may be filed for the following:~~

i. DCR's denial of an annual license application for Storefront Retailer Commercial Cannabis Activity, pursuant to Section 104.06(a)(2).

ii. DCR's denial of an annual license application for Non-Retailer Commercial Cannabis Activity in a Business Premises Less than 30,000 Square Feet or Non-Storefront Retailer Commercial Cannabis Activity, pursuant to Section 104.06(b)(1).

iii. DCR's denial of an annual license application for Non-Retailer Commercial Cannabis Activity in a Business Premises 30,000 Square Feet or Larger, pursuant to Section 104.06(c)(1).

2. The Commission shall hold a public hearing to consider an appeal within 9060 days of the Commission's receipt of the appeal. DCR shall provide notice of a Commission public hearing under this subsection pursuant to Section 104.05(b).

(d) Appeals to City Council

1. A request for an appeal to the City Council may be filed for the following:

i. The Commission's denial of an annual license application pursuant to Section 104.06(a)(3).

ii. The Commission's denial of an annual license application for Non-Retailer Commercial Cannabis Activity in a Business Premises 30,000 Square Feet or Larger pursuant to Section 104.06(c).

2. The City Council shall hold a public hearing to consider an appeal of a Commission determination as authorized in Section 104.06 within 15 City Council meeting days of City Council's receipt of the appeal. Notwithstanding the notice requirements in Section 104.05(b), no later than 5 days prior to any City Council hearing under this subsection, DCR shall provide notice of the hearing via email to the appellant's agent for service of process and all Persons on DCR's Interested Party Notification list.

R. Deletion of/or Changes to Certain Definitions

DCR recommends the deletion of certain definitions in LAMC section 104.01(a) which are unused outside of LAMC section 104.01, or which are not used consistently, for the sake of clarity and to eliminate confusion. These definitions include: (1) "Branded Merchandise;" (2) "Canopy"; (3) "Delivery Employee;" (4) "Employee;" and (5) "License Renewal Inspection." DCR also recommends amendments to the definitions of "Application," "License" and "State License" to clarify that these definitions apply to all Licensees whether they have Temporary Approval, a State provisional license, and/or annual licenses from the City or State. These definitions would be removed from LAMC 104.01(a) and the remaining sections renumbered.

S. Foreign Ownership

DCR recommends an amendment to adjust the City's rules concerning corporate ownership outside of the United States to mirror the State's regulations on this subject. DCR has suggested this amendment at least twice previously, but it has not been adopted. During the Planning and Land Use Management (PLUM) meeting on November 2, 2022, Councilmember Blumenfield inquired about the

regulations surrounding foreign ownership. DCR is therefore including this proposed amendment in this report for Council's consideration again.

LAMC 104.03(a)(2)(ii) would be amend to read:

Any entity that is incorporated outside of the United States **unless the entity possesses a certificate of qualification, certificate of registration, or certificate of status issued by the California Secretary of State.**

RECOMMENDATION

That the City Council, subject to approval by the Mayor:

1. Approve the proposed amendments as outlined above;
2. Request the Office of the City Attorney (City Attorney) to prepare and present a draft ordinance to effectuate the proposed amendments as outlined above; and,
3. Authorize the City Attorney, with the assistance of the DCR, to make technical corrections as necessary to the proposed amendments included in this report and/or include additional technical amendments to Article 4, Chapter X of the LAMC to implement the proposed amendments, as well as Mayor and Council intentions.

These recommendations seek to improve the administration of the City's commercial cannabis Licensing and Social Equity Program. Your time and consideration of this proposal is greatly appreciated. If you have any questions or concerns, please contact Rocky Wiles at (213) 978-0738.

Sincerely,



Jason Killeen
Assistant Executive Director
Department of Cannabis Regulation

- c: Kevin Keller, Deputy Mayor of Economic Development
Leila Lee, Director of Economic Policy
Matt Szabo, City Administrative Officer
Sharon Tso, Chief Legislative Analyst
Taylor Wagniere, Deputy City Attorney