

Host Community Agreements: Marijuana Establishments and RMDs

J. Raymond Miyares
Ivria Glass Fried
MIYARES AND HARRINGTON LLP

April
2018

This information is provided as a service and is general in nature. The presentation today does not, and is not intended to, constitute legal advice. Neither the provision nor receipt of this information creates an attorney-client relationship between the presenter and the recipient. You are advised not to take, or to refrain from taking, any action based on this information without consulting legal counsel about the matters presented.

HOST COMMUNITY AGREEMENT



CONTRACT

Between a developer and the local governing body of a host community, where **the developer agrees to provide the community with certain benefits and mitigate specified impacts** of the project.

ELEMENTS OF AN HCA

Key Facility Features

Ensure facility is as expected

Impact Mitigation

Limit impacts beyond legal mandates

Offsets

Ensure net positive outcome

Contingencies

Cover unanticipated results

Municipal Obligations

Specify what the city/town will do

HCA REQUIREMENT

M.G.L c.94G, §3



RMD

Registered Marijuana Dispensary

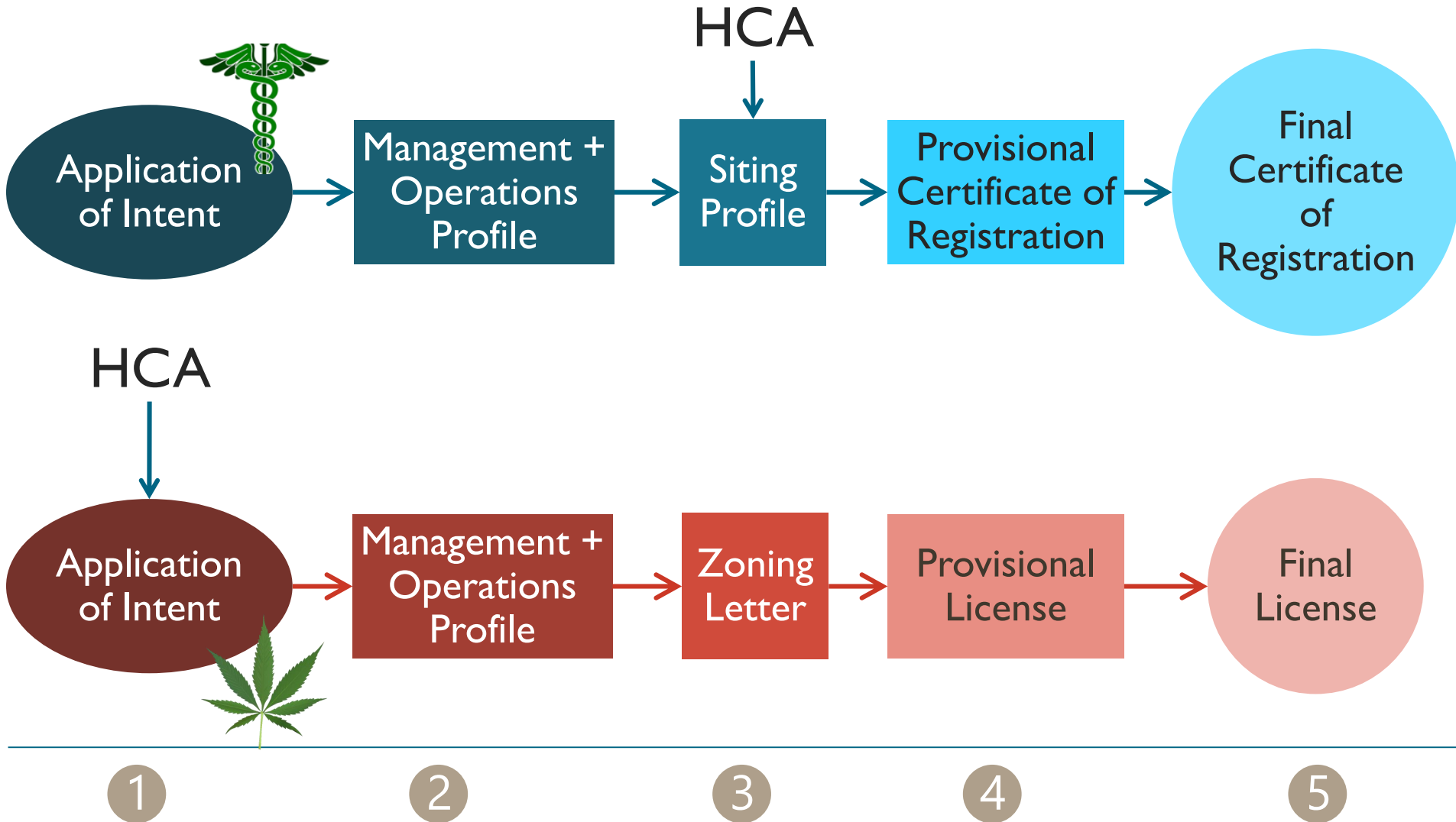
Marijuana-related facility
for medical use.



Marijuana Establishment

Marijuana-related business
for “adult” (recreational) use

AUTHORIZATION PROCESS





Key Facility Features

- Classification
- Size
- Construction characteristics
- Site features
- Permitting requirements
- Timeframe for licensure
- Timeframe for commencement of operations



Impact Mitigation

Physical Impacts

- Construction impacts
- Property Improvements + Landscaping
- Impacts on Town Development
- Upkeep + Maintenance

Safety Impacts

- Traffic
- Parking
- Delivery Schedule
- Public Safety
- Security
- On-Site Management


Community Impacts

- Public Health
- Social Impacts

Infrastructure Impacts

- Water
- Sewer
- Electricity
- Waste Removal

MITIGATING IMPACTS



Restrict or
Adjust
Licensee's
Actions



Collect
Fees from
Licensee

Collect
Fees from
Licensee

- No more than 3 percent of gross sales
- Reasonably related to actual cost
- Cost must be documented in a public record

TYPES OF IMPACT FEES

Current Practice

% of Gross
Sales

Flat Fee +
% of Gross
Sales

Adjustment
for Inflation

Best Practice

Cost-Based

IMPACT FEE DETERMINATION

IMPACT

Increased
Traffic

MITIGATION

- New Traffic Light
- Police Officer to Direct Traffic

IMPACT FEE

Cost of

- Traffic Light
- Police Officer



IMPACT

Increased Traffic

MITIGATION

- New Traffic Light
- Police Officer to Direct Traffic

IMPACT FEE

- Cost of
- Traffic Light
 - Police Officer

Costs covered but traffic remains



IMPACT

Increased Traffic

MITIGATION

- New Traffic Light
- Police Officer to Direct Traffic

IMPACT FEE

Cost of

- Traffic Light
- Police Officer

OFFSETS

- Hiring preferences
- Educational programs
- Charity
- RMD Agreement to be taxed



What happens if

Enterprise more successful than anticipated?

Enterprise less successful than anticipated?

HCA in another community?

Medical → Recreational?

License suspended?

Closes/Relocates?

INITIAL DOCUMENTATION

- RMD:
 - Letter of Support/
Non Opposition
- Marijuana Establishment
 - ✓ HCA Certificate
 - ✓ Zoning Letter

SITING/OPERATIONS

- Zoning Relief
- Utilities

COMMUNITY RELATIONS

- Assistance with
Community Outreach
Meeting
- Educational
Programing
- Coordination with
Local Hiring Programs

HB 4284

Requires Special Fund for all fees and other payments collected under HCA to be used only for impact mitigation

J. Raymond Miyares
Ivria Glass Fried
Miyares and Harrington LLP
40 Grove Street
Suite 190
Wellesley, MA 02482

www.miyares-harrington.com