

Information Note

Pilot Scheme to Facilitate Waiver Applications For Holding Activities in Public Open Spaces (including Public Passageways) within or adjacent to Private Developments

This Information Note sets out the streamlined arrangements implemented by the Lands Department (“LandsD”) for processing application to waive the lease restriction(s) to facilitate holding of activities in public open space (including public passageways) within or adjacent to shopping malls or commercial developments (“Public Open Space”) under a 2-year time-limited pilot scheme (“the Pilot Scheme”)¹ with the policy support of the Development Bureau (“DEVB”).

Public Open Space in Private Developments Design and Management Guidelines

2. According to the “Public Open Space in Private Developments (“POSPD”) Design and Management Guidelines” promulgated by DEVB (“the Guidelines”), activities permissible in POSPD are broadly classified into three types which are:

- (a) always permissible activities;
- (b) non-commercial or charitable activities; and
- (c) commercial activities.

In case of non-commercial or charitable activities, or commercial activities which do not comply with the respective lease conditions, before permitting the activities, the owner of the Public Open Space should first apply for a Waiver² from LandsD for waiving the relevant restriction(s) under lease³.

¹ For the purpose of the Pilot Scheme, the decision of LandsD as to what constitutes a Public Open Space shall be final and binding. The Pilot Scheme shall not be applicable to a Public Open Space in a pure residential development or industrial development. “Dedicated Area” will be considered by the Buildings Department on a case-by-case basis under the Pilot Scheme. In general, the Pilot Scheme should not be applicable to Dedicated Areas for (i) widening footpath along streets/lanes, (ii) provision of corner splay, (iii) vehicular drop off/lay-by, (iv) vehicular access of buildings, (v) passage to footbridges, and (vi) passage to public transport facilities. A list of the “Dedicated Area” can be viewed at the website of the Buildings Department (<https://www.bd.gov.hk/en/resources/codes-and-references/public-open-space/index.html>).

² All references to “Waiver” in this Information Note shall include approval, consent, permission etc., as the case may be.

³ All references to “lease” in this Information Note shall include Government Lease or Conditions of Grant / Sale / Exchange, as the case may be.

Pilot Scheme

3. The objective of the Pilot Scheme is to facilitate holding of activities within or adjacent to the shopping malls or commercial developments so as to enhance shopping experiences and attract tourists, with a view to boosting local economy. The Pilot Scheme will take effect from the date of this Information Note to 10 April 2027 (both dates inclusive).

Streamlined Arrangements

4. To implement the Pilot Scheme, LandsD will process a Waiver application to waive the aforesaid lease restriction(s) pursuant to the streamlined arrangements set out below.

Non-commercial or charitable activities

5. On a Waiver application in respect of activities that have no commercial elements, or activities organised/co-organised by the Government or organised by non-governmental organisations (whether with or without commercial elements):

- (a) Subject to there being no adverse comment from the relevant Government Departments on the application, the Waiver will be issued to the applicant within 4 weeks from the date of receipt of a valid application (with full supporting documents).
- (b) The Waiver will be for a term of one year from the commencement date of the Waiver.
- (c) Nil Waiver fee⁴ and nil Administrative Fee will be charged.
- (d) The Waiver will be restricted for non-commercial or charitable activities to be held in the same location(s) within the Public Open Space as specified in it.

Commercial Activities

6. Commercial activities refer to activities with commercial elements e.g. temporary markets, bazaar, and festive events with fees or temporary shops, etc.

⁴ As nil Waiver fee is to be charged for non-commercial or charitable activities, it will be a requirement in the Waiver that no fee/rent whatsoever shall be charged to the organizer of the activities by the registered owner of the Public Open Space or its agent/representative.

However, the Pilot Scheme will not cover outside seating accommodation in association with an adjoining restaurant within the shopping mall or commercial development and advertisement boards/places. Besides, the area designated for the commercial activities should not exceed 20% of the area of the POSPD. If the 20% ceiling is exceeded, LandsD may approve or reject the application at its sole discretion on a case-by-case basis having regard to individual case merits (e.g. areas reserved for the public, crowd control considerations, hygiene, etc.).

7. In processing a Waiver application for commercial activities:
 - (a) Subject to there being no adverse comment from the relevant Government Departments and local consultation, the terms and Fees payable (i.e. Waiver fee for the first month, Administrative Fee, Land Registration Fee and Deposit listed below) for the Waiver (together with demand notes (“D/N”)) will be offered to the applicant for acceptance within 4 weeks from the date of receipt of a valid application (with full supporting documents). The deadline for settlement of the D/N will be set at 2 weeks from the date of the offer of the Waiver.
 - (b) The Waiver will be for a term of one year from the commencement date of the Waiver.
 - (c) The Fees payable are :
 - (i) Concessionary Waiver Fee at a fixed flat rate⁵ of \$5,000 (“Waiver Fee”) will be charged for the activities to be held in each month⁶.
 - (ii) Administrative Fee of \$12,600 will be charged for each application (subject to annual review).

The flat rate charged by the Government for the Waiver covers items (i) and (ii) above.

- (iii) Land Registration Fee for registration of the Waiver.
- (iv) 1 month of Waiver Fee payable as Deposit.

⁵ The fixed flat rate is non-negotiable.

⁶ The first month shall commence from the commencement date of the Waiver. The Waiver Fee will be charged for the activities to be held on a monthly basis. No Waiver Fee will be charged if no activity is held in a month during the Waiver term. If the period of the activity or activities is less than one month, one-month Waiver Fee will be charged. If the period of the activity is 1.5 month, a total of two-month Waiver Fee will be charged. For the sake of clarity, the period of the activity or activities also covers the time taken up by the setting up and dismantling of the stand for holding activities, during which public access to the Public Open Space concerned is restricted.

- (d) The Waiver will be restricted for commercial activities to be held in the same location(s) within the Public Open Space as specified in it.

Points to Note

8. To facilitate processing of a Waiver application by LandsD, an applicant is advised to submit the application including, but not limited to, the following documents and information not less than 6 weeks before the date of the activity to be held:

- The lease restriction(s) required to be waived for the non-commercial or charitable activities or commercial activities;
- The proposed nature of activities to be held, i.e. non-commercial or charitable activities or commercial activities;
- The proposed Waiver Period;
- Floor plan(s)⁷ on an appropriate scale showing the location, size and detailed dimensions of the area to be occupied and used for the non-commercial or charitable activities or commercial activities to be held;
- A written authorization from the registered owner of the Public Open Space if the application is submitted by an agent/representative;
- For a Waiver application referred to in paragraph 5 above, documentary evidence that no fee or rent is or will be charged to the organizer of the activities by the registered owner of the Public Open Space or its agent/representative;
- Contact person and his/her contact details; and
- Other relevant document(s) and information relating to the Waiver application.

9. It is the responsibility of the owner of the Public Open Space to obtain all necessary approvals, permits, permissions etc. from the relevant authorities for the activity and to comply with all applicable requirements as imposed by Government Departments or under any Ordinances, by laws or regulations that are in force from time to time and the owner shall be responsible for liabilities or claims arising from the activity on the Public Open Space.

10. Nothing in this Information Note shall in any way fetter, affect or prejudice the rights of the Government, the Director of Lands and their officers under the relevant lease or the Government's rights as the lessor or landlord, and all such rights are hereby reserved. Further, nothing in this Information Note including any words and expressions used shall in any way be construed as any variation or Waiver of any provisions under the relevant lease and nothing herein shall affect, prejudice or bind the Government in relation to interpretation or

⁷ For commercial activities, the floor plan(s) shall be prepared and certified by an Authorized Person or a Registered Professional Surveyor.

enforcement of the terms and conditions of the relevant lease or otherwise. Each application submitted will be considered on its own merits by LandsD at its sole and absolute discretion acting in its capacity as lessor or landlord.

11. This Information Note is issued for general information and reference purpose only. All rights to modify the whole or any part of this Information Note are hereby reserved.

12. Applicants can make enquiries with the Headquarters Section of LAO, Lands Department for more detailed information about the application procedures.

Headquarters Section, LAO, Lands Department
20th floor, North Point Government Offices,
333 Java Road, North Point, Hong Kong

(Attn: Mr. Eric HO, Tel. No.: 2231 3366 or
Mr. Mark AU, Tel. No.: 2231 3118)

Lands Department
11 April 2025