

**For discussion
on 26 March 2001**

LegCo Panel on Food Safety and Environmental Hygiene

**REVIEW OF “OUTSIDE SEATING ACCOMMODATION”
FOR LICENSED FOOD PREMISES**

PURPOSE

This paper briefs Members on the preliminary findings of a review on the arrangements for approving “outside seating accommodation” (OSA) for licensed food premises.

BACKGROUND

2. At present, restaurants providing OSA for the purpose of outdoor dining are required to obtain approval from the Director of Food and Environmental Hygiene (DFEH) for the protection of public health and public safety. In considering these applications, the department has been following the policy previously laid down by the two former Provisional Municipal Councils under which operators must obtain the legal right to use the space and demonstrate that the operations meet certain food hygiene, road/fire and building safety requirements. Operators providing outdoor dining without approval may be subject to prosecution by the Food and Environmental Hygiene Department (FEHD) and repeated convictions may lead to suspension or cancellation of the licences.

3. Outdoor dining has become more popular in Hong Kong in recent years. A survey has revealed that, on Government land alone, there are about 150 restaurants providing some form of outdoor dining on a regular basis. Most of these restaurants are situated in Sai Kung,

Sham Tseng, Shatin, Stanley and on outlying islands (Lantau Island, Cheung Chau and Lamma Island). However, the majority have not obtained the legal right to use the land set aside for outdoor dining nor the approval of DFEH to provide OSA. OSA operating in public places without the necessary approvals is illegal and may also cause various food and environmental hygiene and other problems.

THE REVIEW

4. Noting the above problem and the growing popularity of outdoor dining, FEHD set up an inter-departmental working group to review the existing arrangements for outdoor dining and consider measures to facilitate its development without compromising food hygiene, environmental hygiene and public safety standards. The Working Group comprises members and representatives from relevant departments and bureaux including FEHD, Lands Department, Fire Services Department, Buildings Department, Transport Department, Highway Department, Planning Department, Environmental Protection Department, Home Affairs Department, Commerce and Industry Bureau, Economic Services Bureau and Environment and Food Bureau.

CONSTRAINTS RELATING TO OUTDOOR DINING

5. In conducting the review, the Working Group has made reference to overseas experiences on outdoor dining such as those of Singapore, Perth and Sydney. The Working Group agrees that OSA appeals to both local and overseas tourists and adds colour to street landscape. However, the Group has observed that the success of outdoor dining in these cities is largely attributed to suitable city planning such as wide boulevards lined with trees or plants, designated pedestrian zones, building setback, squares without vehicular traffic and riverbank walkways which provides favourable conditions for outdoor dining without creating too much environmental nuisance. Furthermore, the relevant authorities in these cities have put in place various regulations to ensure that OSA is operated in an orderly and well-planned manner. The Group has also noted that most of the built-up areas in Hong Kong

are however not planned for outdoor dining and many public places are not quite suitable for OSA. Outdoor dining not properly regulated can cause obstruction, noise, fume and various environmental hygiene problems, and may attract complaints from local residents.

PRELIMINARY RECOMMENDATIONS

6. The Group has concluded that the best and most effective approach in promoting outdoor dining is to allow for and integrate the accommodation for outdoor dining activities with suitable land uses in the planning of new areas and comprehensive redevelopment areas. The Group has also recommended some short-term measures to facilitate outdoor dining without creating environmental nuisances and hazards to public safety. Details of the Group's recommendations are set out in paragraphs 7 to 10.

Promulgation of clearer guidelines on Outdoor Dining

7. To facilitate the trade in assessing the suitability or otherwise of any premises or land to be used for OSA, the Group has drawn up a set of key requirements in assessing applications for OSA. The requirements cover matters such as clearance of outdoor dining area from access for emergency vehicles, width of walkway, compatibility with surrounding areas and environment, etc. The proposed key requirements are set out in **Annex A**.

8. In addition, the Group has drawn up a set of basic licensing requirements and conditions for granting approval for OSA. The basic licensing requirements and conditions cover matters such as legitimate right to use the land, additional food preparation space, provision of sanitary facilities and operation within approved boundary. The proposed basic licensing requirements and conditions are set out in **Annex B**.

One-stop-shop approach in processing OSA applications

9. To promote a more business-friendly system, the Group has recommended that FEHD, being the licensing authority for food

businesses, should be the focal point for receiving and processing new applications for OSA, including applications for a right to use Government land. FEHD should arrange for the necessary referrals and follow through the whole process. The Group recommends that relevant departments should take a more flexible approach in considering OSA applications.

Temporary OSA

10. The Group recognizes that under special circumstances, such as festive activities, fun fairs and pedestrianization schemes, there is scope for allowing OSA on a temporary basis. The operation of temporary OSA will have to meet the key requirements set out in Annex A, though departments should consider such applications with flexibility. The views of the District Councils concerned will also be sought.

Future planning

11. As stated above, outdoor dining should best be integrated with suitable land uses at the initial planning stage. The Group recommends that, where considered appropriate, the requirement for OSA should be taken into account in the planning of new areas and comprehensive redevelopment areas.

ADVICE SOUGHT AND WAY FORWARD

12. We welcome Members' views on the Working Group's preliminary recommendations. We will consult the trade, the relevant District Councils and the Hong Kong Tourism Board further on the Group's recommendations.

Food and Environmental Hygiene Department
March 2001

Key Criteria for Considering applications for Outside Seating Accommodation

Premises

- (a) All OSA shall normally be annexed to restaurants and is situated on Government land or within private land which is suitable for outdoor dining.

Building Safety Requirements

- (b) The proposed OSA should not obstruct the emergency exits of the adjoining buildings.
- (c) The OSA should be suitable for restaurant use with regard to the aspects on structural stability, means of escape, fire resisting construction and clear of unauthorized building works affecting public safety.

Fire Safety Requirements

- (d) OSA should not be situated within 6m from any dangerous goods store or installation, or within 1.5m from any fire hydrant, ground valve or notice plate.
- (e) OSA should not cause obstruction to any emergency vehicular access and operation of fire services aerial appliances or equipment.
- (f) OSA should not cause obstruction to any building fire services installation or notice plate.
- (g) Except with approval, no heating activities involving the use of naked flame (like hot-pot or barbecue) is generally allowed within OSA.
- (h) OSA must be provided with adequate and appropriate type of portable fire

fighting equipment.

Planning Requirement

- (i) Given the requirements of Outline Zoning Plan (OZP) or the Development Permission Area Plan (DPA Plan) made under the Town Planning Ordinance (Cap. 131), the establishment of OSA must comply with the provisions of the relevant plan. Where necessary, the operators have to seek planning permission from the Town Planning Board and planning application will be considered on individual merits.

Transport Requirements

- (j) Walkway on which OSA is proposed should be at least 5m wide and a clear width of 2m or more should be available for pedestrian circulation at all times.
- (k) OSA should be away from any pedestrian crossing or problem spot and located in area where the traffic speed is low.
- (l) Furniture of OSA should not obstruct sightline and traffic aids.
- (m) OSA should be so controlled that roadworks and traffic diversions as well as traffic management scheme for special occasions will not be affected.
- (n) No damage to pavement and street furniture in the temporary OSA area should be allowed. The operators should clear all furniture and appliances in the OSA area and restore the area to its original condition after the operation hours each day.

Licensing Requirements and Conditions for OSA
(Applicable to New Applications/Inclusions)

- (I) OSA on Government Land or in Public Places or
(II) OSA on Private Land

(A) *Licensing Requirements*

1. *(I) For OSA on Government Land or in Public Places,*
Right to use the Government land or public places for OSA must be obtained from the Lands Department.

(II) For OSA on Private Land,
Documentary proof from the owner or landlord showing the legitimate right to use the private land in question for OSA must be obtained.
2. No shelters other than movable sunshades and the like shall be allowed in the OSA. Prior approval and consent must be obtained from the Building Authority under the Buildings Ordinance (Cap. 123) for the construction of awnings or other supporting structures.
- 3*. Additional food preparation space and scullery area equivalent to 1/10 of the OSA must be provided inside the licensed restaurant premises.
4. Adequate sanitary and ablution facilities must be provided within the roofed over area of the premises for use by the customers.

[* Having considered the merits and nature of business of each existing OSA case, relaxation may be granted on justifiable grounds and approval from respective AD(Ops) must be sought.]

(B) *Licensing Conditions*

1. The boundary of the OSA shall be properly delineated and clearly shown on site when business is in operation.
2. Tables and chairs shall only be set out within the approved area.
3. Sunshades, umbrellas and the like shall be kept in good repair and in a clean condition.
4. Adequate measures must be taken to protect food from risk of contamination during conveyance to the OSA.
5. No preparation (including self-service hot-pot or barbecue), display or storage of open food, or cleaning or storage of any equipment or utensils used in the preparation or service of food is allowed in the OSA.
6. The licensee must keep the OSA clean and tidy at all times.
7. The licensee must comply with the provisions of the laws of Hong Kong and requirements and conditions imposed by other Government departments.
8. Approval for OSA may be revoked at any time when its existence is incompatible with its surrounding area or environment.
9. The business hours in the OSA should be confined to from 11 a.m. to 11 p.m.
[If the OSA is in close proximity to residential buildings. This may be imposed as a licencing condition or a STT condition.]

ADVISORY NOTE TO THE APPLICANTS:

- The OSA must carry public liability insurance.