

Reminder for the Trade

Telecommunications (Amendment) Ordinance 2024 Mobile Communications Facilities Installations

1. It is the Government's policy objective to develop Hong Kong into a smart city. The Government has taken the policy initiative to amend the Telecommunications Ordinance (Cap. 106) and issue/update relevant guidelines to ensure that appropriate space is made available in new buildings for the installation of mobile communications facilities for enhancing the fifth generation mobile services infrastructure in Hong Kong.
2. The Telecommunications (Amendment) Ordinance 2024 has been enacted to amend section 14 of the Telecommunications Ordinance such that the mobile network operators may be authorized by the Communications Authority to access the reserved floor space and access facilities in specified buildings¹ to install and maintain mobile communications facilities. The amended section 14 of the Telecommunications Ordinance came into operation on 1 October 2024. The Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers on Access Facilities for Telecommunications and Broadcasting Services (Practice Note (APP-84)) has also been revised by the Building Authority to set out the requirements on floor space and access facilities for the installation of mobile communications facilities in specified buildings. For more details, please refer to the webpage on "Installation of Mobile Communications Facilities in Specified Buildings" on the Office of the Communications Authority's website (www.ofca.gov.hk/en/industry_focus/infrastructures/mobile_communications_facilities_in_specified_buildings/index.html).

¹ Under section 14(10A) of the Telecommunications Ordinance (Cap. 106), a building is a specified building if the building is required to be provided with access facilities for telecommunications and broadcasting services under the Building (Planning) Regulations (Cap. 123 sub. Leg. F), and the earliest approval of any of the plans for the building works for its erection (or rebuilding or alteration resulting in a new building) is given for the purposes of section 14(1) of the Buildings Ordinance (Cap. 123) on or after the specified date (i.e. 1 April 2025) but a specified building does not include a building, or any part of it, for the exclusive occupation or use of any person whilst the building or part is being so occupied or used.

3. Mobile communications facilities installations are considered falling within the category of “public utility installation” (item (zl) of section 6(4) in Part 1 of Schedule 1 to the Residential Properties (First-hand Sales) Ordinance (“the Ordinance”)) as they will be for the provision of public mobile services to the general public (including but not limited to the residents/occupiers/users/visitors of the buildings concerned).
4. The Sales of First-hand Residential Properties Authority (“SRPA”) would like to remind vendors to take note of the requirements under the Ordinance on the contents of sales brochure set out in No. 3.2 and 3.3 of the Frequently Asked Questions and Answers (FAQs) on Sales Brochure which was issued by the SRPA on 25 July 2018 about “public utility installation” to be shown on the location plan and building, facility or structure specified in section 6(4) in Part 1 of Schedule 1 to the Ordinance that is situated within the boundary of a development (reproduced below).

Q3.2 Item (zl) of section 6(4) in Part 1 of Schedule 1 to the Ordinance requires to show “a public utility installation” on the location plan. What kind of installation is expected to be shown on the location plan under item (zl)?

- A3.2 Item (zl) requires the location plan to show utility installations providing services to the general public but not solely to the residents of a particular building. Vendors should conduct thorough field surveys to identify public utility installations that are situated within 250 metres from the boundary of the development and mark their locations on the location plan using proper symbols. Satellite television receiver or outdoor television antenna erected/installed at a building serving that building only is not required to be shown on the location plan. However, vendors are required to show on the location plan wall-mounted telecommunications antenna erected/installed at rooftop of a building for or in connection with a public telecommunications service, by marking on the location plan at least one symbol denoting “public utility installation” showing where the building with one or more such telecommunications antenna is located.

Q3.3 Are vendors required under the Ordinance to show in the location plan the name of street, or building, facility or structure specified in section 6(4) in Part 1 of Schedule 1 to the Ordinance that is situated within the boundary of a development?

A3.3 According to section 19(2)(f) of the Ordinance, the sales brochure for a development must set out a location plan of the development. Section 6(2)(b)(ii) and (iii) in Part 1 of Schedule 1 to the Ordinance requires that the location plan must show the name of every street that is situated within 250 metres from the boundary of the development and every building, facility or structure (if any) specified in section 6(4) in Part 1 of Schedule 1 to the Ordinance that is situated within 250 metres from the boundary of the development.

The Ordinance does not include specific provisions to require the vendors to show in the location plan the name of the street, or building, facility or structure specified in section 6(4) in Part 1 of Schedule 1 to the Ordinance that is situated within the boundary of the development.

That said, if there is any feature within or outside the boundary of a development which is likely to materially affect the enjoyment of any residential property in the development, and such information is not otherwise required to be set out in the sales brochure and is known to the vendor but is not known to the general public, the vendor should provide such information under section 20(1) of the Ordinance (see also No. 20.2 and 20.3 of FAQs on Sales Brochure regarding relevant information).

5. The SRPA has also taken this opportunity to add a new FAQ on Sales Brochure on some examples of “relevant information” under section 20(1) and (7) of the Ordinance for reference (reproduced below).

Q20.5 Section 20(1) of the Ordinance stipulates that the sales brochure must set out relevant information that is specific to a residential property in the development and/or that is specific to the development. What are examples of such information?

A20.5 “Relevant information” in relation to a residential property/development is defined under section 20(7) of the Ordinance to mean information on any matter that is likely to materially affect the enjoyment of the residential property/any residential property of the development. According to section 20(1) of the Ordinance, the “relevant information” is information not otherwise required to be set out in the sales brochure and is “known to the vendor but is not known to the general public”. Only those matters which are likely to materially affect the enjoyment of a residential property are regarded as “relevant information” under section 20(1) of the Ordinance.

Some examples of “relevant information” are set out below for reference:

- (i) windows of certain specific residential properties of a development must be closed throughout the year for noise mitigation purpose or due to the special condition of the surrounding area (see also paragraph 27 of Guidelines on Sales Brochure (Guidelines No. G01/13) issued by the SRPA on 5 April 2013);
- (ii) if a lobby to a fireman’s lift forms part of a residential property for sale to purchasers, given that prospective purchasers are not able to know by looking at the floor plan of the residential properties in the sales brochure that a lobby to a fireman’s lift forms part of a residential property, and that the restrictions on the usage of such type of lobby is likely to materially affect individual owner’s enjoyment of the residential property

(see also Reminder for the Trade relating to lobby to a fireman's lift which forms part of a first-hand residential property issued by the SRPA on 23 October 2015);

- (iii) if some of the residential properties in a development are to be sold subject to tenancy, vendors should consider whether, in relation to a residential property, the existence of a tenancy and the particulars of such tenancy constitute information on matters that are likely to materially affect the enjoyment of the residential property (see also No. 20.4 of FAQs on Sales Brochure); and
- (iv) if there is any feature within or outside the boundary of a development which is likely to materially affect the enjoyment of any residential property in the development, and such information is not otherwise required to be set out in the sales brochure and is known to the vendor but is not known to the general public (see also No. 3.3 of FAQs on Sales Brochure).

Sales of First-hand Residential Properties Authority
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