

Public Consultation on the Management of Fixed Pitch Hawker Areas

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Chapter 1 Introduction

- 1.1 Street hawking has a long history in Hong Kong. It provides job opportunities for the grassroots, and offers a cheaper source of goods for the public at large. However, hawking activities may give rise to environmental hygiene and noise problems as well as obstruction to public passageways, causing nuisance to nearby residents and pedestrians. In addition, there are complaints from business operators trading on rented premises concerning the obstruction caused by street hawking to their operation. Over the past three years, the Food and Environmental Hygiene Department (FEHD) received an average of about 11 200 complaints against licensed hawkers and illegal street hawking every year.
- 1.2 For many years, the Administration's policy has been to properly regulate the hawking activities of licensed hawkers and take enforcement action against illegal hawking. In view of the various problems arising from street hawking, the former Urban Council had stopped issuing new hawker licences under normal circumstances since the early 1970s. Succession to and transfer of hawker licences already issued have also been subject to stringent restrictions. Transfer of and succession to itinerant hawker licences (IHLs) have been prohibited with a view to gradually reducing the number of hawkers by natural attrition. The Administration has also resited hawkers into public markets in order to further reduce the number of on-street hawkers and improve environmental hygiene. The number of licensed hawkers (including various kinds of fixed pitch hawkers and itinerant hawkers) has dropped from 20 000 in the late 1980s to some 7 000 at present. (The types of hawkers and their numbers as at 31 December 2011 are at **Annex.**)
- 1.3 As compared with the past, the number of hawkers has declined significantly. In recent years, there are views from the community that in light of the traditional characteristics of hawker areas, some of which are popular tourist spots, the hawking trade should be retained and revitalised. Besides, there are views that the hawking trade serves important social functions in that it is one of the major sources of daily necessities and food for the general public and provides employment opportunities and a means of living for the grassroots.
- 1.4 The fire that broke out at the fixed hawker pitches at Fa Yuen Street in Mongkok on 30 November last year unfortunately caused a considerable number of casualties in the adjoining buildings. As there are many similar on-street hawker stalls which are close to residential buildings and located in densely populated areas of the territory, the Administration considers it necessary to draw on the

experience of the fire and introduce new measures to improve the management of fixed hawker pitches, so as to reduce the fire risks to nearby residents. The potential fire risks posed by hawker areas mainly involve the location of stalls, the material of stall structures and the storage of a large amount of combustible goods, etc.

- 1.5 The hawking trade has a long history. The existing operation modes of hawker stalls were established a long time ago, such that many hawkers' trading practices and mindset are deeply entrenched by now. However, in order to reduce the fire risks posed by hawker stalls, we consider that different sectors of the community, including hawkers themselves, District Councils (DCs) and the general public, are obliged to promote the enhancement of hawker stall management
- 1.6 In the wake of the fire, the Government has set up an inter-departmental working group (the Working Group) chaired by the Chief Secretary for Administration to discuss a basket of measures to be implemented. It is suggested that short, medium and long-term measures aimed at improving the management of hawker stalls and enhancing public safety be taken forward in stages, starting with those which are easier to implement first.

Chapter 2 Government's Policy on Hawker Licensing and Management

- 2.1 It is the Government's established hawker management policy to strike a proper balance between allowing legal hawking activities on the one hand and maintaining environmental hygiene and protecting the public from nuisance on the other. Under this objective, the Administration's hawker management and licensing policy has kept abreast of the times and adjustments have been made as appropriate to keep pace with the social development in Hong Kong.
- 2.2 As mentioned in Chapter 1 of this consultation document, in view of the various problems arising from street hawking, the former Urban Council had stopped issuing new hawker licences under normal circumstances since the early 1970s. Succession to and transfer of hawker licences already issued have also been subject to stringent restrictions. FEHD has continued to pursue this policy since its establishment in 2000. The photographs below show the on-street hawking activities in early years:



Photo 1: On-street hawking activities in early years



Photo 2: On-street hawking activities in early years

- 2.3 All along, the Administration has been closely monitoring and stringently controlling the number of licensed hawkers, and has gradually reduced the number of hawkers by adopting various responsive measures. With the reduction in the number of licensed hawkers from 20 000 in late 1980s to some 7 000 at present, the environmental hygiene and street obstruction problems caused by hawking activities have been brought under control. The two fires at the fixed hawker pitches at Fa Yuen Street in 2010 and 2011 have shown that further reduction in the number of fixed hawker pitches may be needed to facilitate the implementation of a basket of fire safety measures to reduce fire risks posed to residents in the vicinity.

Review on hawker licensing policy

- 2.4 There were views in 2008 that the hawking trade should be retained and revitalised because of its traditional characteristics. Given the substantial reduction in the number of hawkers at that time as compared with the past, the Food and Health Bureau and FEHD thus launched a review on hawker licensing policy.
- 2.5 The review on hawker licensing policy covered a wide scope of issues which involved the policy direction of various types of hawker licences. The review examined the feasibility of re-issuing new hawker licences and relaxing the requirements for succession to and transfer of fixed pitch (cooked food or light refreshment) hawker licences without compromising environmental hygiene, ways to strengthen the role of DCs in terms of hawker licensing and management work at the district level, as well as the restrictions on the succession to and transfer of newly issued hawker licences. In 2008-09, the Administration consulted the 18 DCs, over 20 hawker associations and other stakeholders, and sought the views of the Legislative Council (LegCo) Panel on Food Safety and Environmental Hygiene (the Panel) on several occasions. At the meeting on 14 April 2009, the Panel supported the policy direction with regard to hawker licensing. Subsequently, the Administration has followed up the proposals made in the review, the content and progress of which are set out in the ensuing paragraphs.

Fixed pitch (cooked food or light refreshment) hawker licences

- 2.6 Fixed pitch (cooked food or light refreshment) hawkers (i.e. Dai Pai Tong) have a long history in Hong Kong. The number of cooked food stalls (CFSs) began to increase significantly after the Second World War and flourished in the 1950s and 60s. The demand for CFSs began to fall in the 1970s as a result of increasing prosperity of the society people's changing eating habits, and the growing numbers of restaurants and fast food shops. There were also more and more complaints from nearby residents against the environmental nuisance created by CFSs, such as excessive noise, cooking fumes, discharge of untreated grease and waste water, and street obstruction. In response to public's demand for appropriate control of the hawker problem and overall containment of hawker number, the former Urban Council decided in 1973 not to issue any new hawker licences (including CFS hawker licences). The photograph below shows Dai Pai Tong in early years:



Photo 3: On-street hawking activities in early years

- 2.7 For further improvement of environmental hygiene, the former Urban Council introduced an ex-gratia payment (“EGP”) scheme in 1983 to encourage the voluntary surrender of CFS hawker licences. Under this scheme, urban CFS licensees would be given an EGP upon surrender of their licences. FEHD, upon the department’s establishment in 2000, continued to carry out the scheme until 2007.
- 2.8 By 2009, there were only 28 “Dai Pai Tongs” across the territory. They were mainly concentrated in Sham Shui Po District as well as Central and Western District. Some of them prepared western light refreshments such as tea and coffee, and some others served seafood and Chinese dishes. Depending on the type of cooked food they prepared, their mode of operation and location, some “Dai Pai Tongs” have indeed created environmental hygiene problems, noise nuisance, as well as obstruction to public passageways. Others may have successfully blended in with their surroundings, providing special cooked food and were considered part of the local heritage that deserved preservation.
- 2.9 The conclusion of the policy review is that we should consult the relevant DC if a “Dai Pai Tong” is to be closed down because of the old age or passing away of the licensee or other reasons. The DC can then advise whether that “Dai Pai Tong” should be allowed to continue to operate in situ, having regard to the specific circumstances of the district and residents’ aspirations. If the DC supports the continued operation of the “Dai Pai Tong” in situ, the Administration may then consider relaxing the succession and transfer requirements to align with those of other fixed pitch hawker licences so that the licence can also be succeeded by or transferred to the licensee’s “immediate family members” other than the spouse, or a new licence can be issued to other interested operators. After consulting the DC concerned, FEHD has already approved nine applications for transfer of licence in respect of “Dai Pai Tongs” in Central and Western District.

Fixed pitch hawker licences

2.10 As the Administration had not issued any new hawker licences for years, there were vacant pitches in some hawker areas arising from resiting of hawker stalls or surrender of licences by licensees. The policy review concluded that provided the current number of fixed pitches remains unchanged and vacant pitches in the back row are taken up by adjacent fixed pitches in the front row, fixed pitch hawker licences can be issued to new operators for trading in the vacant pitches. Hitherto, a total of 658 back-row vacant pitches have been merged with front-row pitches. As for the remaining vacant fixed pitches, we have consulted the relevant DCs on whether vacant pitches in individual hawker areas should be made available for re-allocation. FEHD has issued new licences in respect of the 218 pitches that have received DCs' support for re-allocation.

IHLs

2.11 As the operation mode and characteristics of itinerant hawking had caused a great deal of environmental hygiene problems and nuisance, the former Urban Council introduced a compulsory deletion policy in 1993 with a view to phasing out all IHLs in the urban area within a certain period of time. In 2003, the Administration extended the scheme to cover IHLs in the New Territories, and imposed a time limit of five years to allow sufficient time for IHL holders intending to surrender their licences to make the necessary arrangements. Subsequently, the Government extended the validity period of the scheme to the end of 2010¹. Under the scheme, an IHL holder who voluntarily surrenders his licence may choose any one of the following options:

- (a) to select a vacant fixed pitch and become a licensed fixed pitch hawker;
- (b) to select a vacant public market stall and enjoy certain concessionary rental arrangements; or
- (c) to receive an EGP of \$30,000.

2.12 In 2010, taking into account the fact that the majority of IHL holders were elderly people who would probably prefer working for a further year or two before ceasing their business, and that not many itinerant hawkers had selected public market stalls since the implementation of the scheme, the Administration decided, after consulting the Panel, to extend for the last time the validity period of the options of an EGP of \$30,000 and priority selection of a vacant fixed pitch under the voluntary licence surrender scheme for itinerant hawkers to 31 December 2012.

¹ One of the conclusions of the review on hawker licensing policy in 2008-09 was that new itinerant (frozen confectionery) hawker licences (i.e. "small ice-cream vendor" licences) would be issued. As all holders of such licences at the time indicated that they would not surrender their licences under the scheme, the voluntary surrender scheme for "small ice-cream vendor" licences expired on 31 May 2009.

- 2.13 As at 31 December 2011, a total of 488 IHL holders have voluntarily surrendered their licences under the scheme. Among them, 386 opted for EGP, 74 selected vacant fixed hawker pitches and 28 selected vacant market stalls. The remaining 428 IHL holders (“small ice cream vendors” excluded) continue to operate.
- 2.14 Itinerant hawkers usually gather at prime locations when in operation. Their trolleys and goods inevitably impede pedestrian flow, thus adversely affecting environmental hygiene. The policy review proposed to maintain the existing policy of not issuing new IHLs for selling wet and dry goods, and the prohibition on succession to and transfer of IHLs. Hawker associations and DCs had no objection to this proposal.
- 2.15 Itinerant (frozen confectionery) hawker licence holders (commonly known as “small ice-cream vendors”) usually sell pre-packaged frozen confectionery such as ice-cream, ice lollies, soft drinks and other non-alcoholic beverages at the entrances to parks, beaches and tourist spots. Their mode of operation is different from that of other licensed itinerant hawkers. They usually operate with motorcycles or bicycles and are scattered at different locations, hence providing convenience to visitors at remote areas without necessarily causing obstruction to public passages. During the consultation, some DCs and hawker associations supported issuing new itinerant (frozen confectionery) hawker licences. The policy review concluded that not more than 61 such licences should be issued. As at 31 December 2011, FEHD has issued 60 new licences and will continue to process the remaining application.

Arrangements for succession to and transfer of hawker licences

- 2.16 Another measure proposed in the review of hawker licensing policy is that for all new hawker licences, including those issued on account of “succession” to or “transfer” of licences, they should not be allowed for further succession or transfer.

Initiatives outside the scope of the review on hawker licensing policy

Bootblack hawkers

- 2.17 In light of the views that bootblack was a traditional hawking trade worthy of preservation and with the support of the Panel and the Central and Western DC, FEHD re-issued in December 2009 fixed pitch hawker licences to eight bootblacks who had been operating in the Central and Western District for a long time.

Tobacco hawkers

- 2.18 Prior to August 1989, the Customs and Excise Department (C&ED) issued tobacco hawker’s licences (THLs)/tobacco retailer’s licences (TRLs) under the Dutiable Commodities Ordinance (DCO) (Cap. 109), permitting holders to sell cigarettes and tobacco products by way of retail in urban areas. Following legislative

amendments to the DCO, persons selling dutiable commodities (including retailers) were no longer required to obtain licences from C&ED. Since then, C&ED has ceased to issue new THLs/TRLs and stopped renewing licences already issued. With the support of the Panel and the Central & Western DC, FEHD re-issued in June 2010 fixed pitch hawker licences to eight tobacco hawkers who had been operating in the district.

Tradesmen

- 2.19 To further preserve local culture and heritage, FEHD carried out earlier a fact-finding exercise on unlicensed street traders who were conducting tradesman activities to ascertain their trading locations, types of businesses and length of services at the relevant locations, etc. FEHD proposed that fixed pitch (tradesman) hawker licences should be issued to these tradesmen. The proposal was supported by the Panel in June 2011. As FEHD is currently reviewing the management of fixed pitch hawkers in the wake of the fires at Fa Yuen Street, it will consider whether and how to implement the licensing proposal in due course.

Chapter 3 Fixed Pitch Hawkers

Basic information

- 3.1 There are two categories of hawker licences: fixed pitch hawker licences and IHLs. As at 31 December 2011, the approximate numbers of fixed pitch hawker licences and IHLs are 6 500 and 500 respectively. Among the 6 500 fixed hawker pitches, about 4 500 are on-street fixed hawker pitches, with the majority of them located at 43 streets in Central and Western, Wan Chai, Eastern, Yau Tsim Mong, Sham Shui Po and Kowloon City Districts (including Fa Yuen Street). (These on-street hawker stalls are commonly known as “Pai Tongs”). The remaining stalls are fixed pitches in hawker bazaars, fixed pitches for cooked food or light refreshment (including the stalls commonly known as “Dai Pai Tongs” and “cooked food kiosks”) and newspaper stalls, etc.
- 3.2 Among the 4 500 on-street fixed hawker pitches, about 1 100 adopt the arrangement of “dismantling of stalls and removal of all commodities after close of business at night”, such as the fixed pitches at Tung Choi Street. There are no special dismantling arrangements for the remaining 3 400 pitches, including the “cabinet-type” fixed pitches at Fa Yuen Street.
- 3.3 On-street fixed hawker pitches are classified into three categories according to their floor areas:

Floor Area	Dimension
not exceeding 1.1m ²	900 mm x 1 200mm (3ft x 4ft)
1.1m ² to 1.7 m ²	900 mm x 1 800 mm (3ft x 6 ft)
1.7m ² to 2.2 m ²	1 200 mm x 1 800 mm (4 ft x 6 ft)

(Note: The majority of the fixed pitches in the hawker areas of the 43 streets are 3 ft x 4 ft in size.)

Irregularities found among fixed pitch hawkers

- 3.4 All hawkers, including fixed pitch hawkers, are subject to regulation under the Public Health and Municipal Services Ordinance (Cap. 132) and its subsidiary legislation, the Hawker Regulation (Cap. 132AI). They provide for the issue, renewal and cancellation of licences; the sale of specified commodities; application for permission to appoint assistants and deputies; the delineation, control and use of fixed pitches, as well as the requirement that no obstruction should be caused by licensees, etc.
- 3.5 Licensed hawkers are duty-bound to abide by the licensing conditions. However, some fixed pitch hawkers who lack self-discipline persist in blatantly violating

regulations despite repeated prosecutions. The offences they have committed include street obstruction and / or overnight storage of commodities outside the pitch area. There were about 7 000 convicted cases in 2010 involving licensed hawkers (including fixed pitch hawkers and itinerant hawkers) or their assistants, etc. Most of them committed the offence of causing street obstruction². Other offences committed included placing commodities being hawked and equipment used in connection with hawking outside the boundaries of the pitch, as well as hawking commodities or services that are not specified in their licences, etc.

Fire risk associated with non-compliances

- 3.6 On-street fixed pitches are mainly located at streets adjacent to residential buildings in densely populated areas. Street obstruction and / or overnight storage of commodities outside the pitch area by stall owners will certainly increase on-street fixed pitches' fire risks to a significant extent. The fire that broke out at Fa Yuen Street last year further demonstrated the threat of hawker stalls to the personal safety of nearby residents. According to FEHD's records, the numbers of fire incidents involving fixed pitches in the past four years are 6 (2008), 3 (2009), 7 (2010) and 5 (2011) respectively.

Enforcement

- 3.7 Generally, FEHD officers adopt the strategy of "giving warning first before taking enforcement action" against licensed hawkers. FEHD officers also allow fixed hawker pitches to be extended beyond the approved area within certain limits during their operation on the condition that the passageways should be unimpeded and stalls should revert to the approved area after business hours. In recent years, the community has different views on the enforcement work of FEHD. On the one hand, some consider that its enforcement is too slack and suggest that no hawking irregularities should be tolerated. On the other, some think that the enforcement is too stringent and there is room for relaxation. At the same time, there are also diverse views on on-street hawking. Some think that on-street hawking has its own characteristics and offers cheaper shopping choices to the public, while others are dissatisfied with the environmental hygiene and noise problems as well as obstruction of public passageways caused by on-street hawking. In 2010, FEHD received over 12 000 complaints in connection with hawking activities. When performing their duties, FEHD officers need to strike a balance between facilitating hawking business and safeguarding public interests.
- 3.8 Since the Number 3 alarm fire at the hawker stalls at Fa Yuen Street in December 2010, FEHD, after consulting the Fire Services Department (FSD), has implemented a series of fire safety improvement measures, which included ensuring sufficient space in the carriageway for fire appliances and fire services

² Including breaches of Section 53(1) of the Hawker Regulation and Section 4A of the Summary Offences Ordinance.

personnel; allowing sufficient space between hawker stalls to facilitate evacuation of residents of buildings in the vicinity; providing proper separation space between groups of hawker stalls; requiring stalls to be constructed with fire resisting materials; and requiring each hawker stall to obtain independent electricity supply from an authorised source (i.e. electricity meter), etc. Between December 2010 and November 2011, FEHD instituted more than 660 prosecutions against non-compliances and obstruction by stall hawkers at Fa Yuen Street. As regards storage of commodities outside their stalls, FEHD issued in early November 2011 more than 200 warning letters to stall hawkers requiring them to remove goods from the streets. Unfortunately, despite all these efforts, a serious fire occurred at the hawker stalls at Fa Yuen Street again on 30 November last year, causing a considerable number of casualties in the nearby buildings.

Chapter 4 Improvement Options for Management of Fixed Pitch Hawker Areas

4.1 After the fire in December 2010, another fire broke out again at the hawker stalls at Fa Yuen Street in Mongkok on 30 November last year. We consider it necessary to draw on the experience of these two fires at Fa Yuen Street and introduce new measures to improve the environment of hawker areas, so as to further reduce the fire risks posed by hawkers operating in the street. According to FSD's assessment, existing hawker areas in general have the following potential fire risks:

- (a) hawker stalls are close to the staircase discharge points of the adjacent buildings. In the event of a fire at the stalls, flames, dense smoke and hot fumes will block the discharge points of buildings, thus creating the "chimney effect";
- (b) the structures and canopies of hawker stalls are not made of fire resisting materials. This will enable the fire to spread more quickly and will seriously affect the efficiency of the fire fighting and rescue operations;
- (c) the canopies exceed the specified dimensions. These over-sized canopies reduce the width of the roads to less than six metres, thus obstructing the passage of fire engines as well as the fire fighting and rescue operations;
- (d) storage of large quantities of combustible goods in hawker stalls. This will cause the fire to spread quickly and burn fiercely;
- (e) the overnight storage of goods both inside and outside hawker stalls after trading hours. This will increase fire risks, especially during night-time, when a fire is not detected promptly. Given the reduced alertness of nearby residents who are at rest, the likelihood of massive casualties is increased if the fire spreads to the adjacent buildings; and
- (f) the practice of "dismantling of stalls and removal of all commodities after close of business at night", which is currently adopted in Tung Choi Street, does not address the fire risks posed by hawker stalls during trading hours. In order to thoroughly reduce the fire risks of hawker stalls both during and after operation hours, there is a need to impose certain restrictions on the disposition of hawker stalls, the materials of the stall structures as well as stall dimensions.

4.2 As mentioned in paragraph 4.1 above, hawker areas indeed carry fire risks. Therefore, as far as the management of hawker stalls is concerned, standing still and doing nothing about the potential fire risks posed by hawker areas is definitely not an option. Hawkers, DCs and society as a whole should have the determination to reform the management of hawker stalls with a view to

addressing the fire risks. The implementation of improvement measures will be conducive to the long-term development of hawker stalls and the community. The Government has set up the Working Group to discuss a basket of measures to be implemented. It is suggested that short, medium and long-term measures aimed at improving the management of hawker stalls and enhancing public safety be taken forward in stages starting with those which are easier to implement first. So far, one short-term improvement measure has been implemented and another is under consultation with stakeholders (see paragraphs 4.3 to 4.9 below).

Short-term options

Strengthening of routine management and enforcement work (Implemented)

- 4.3 The fires that broke out in two consecutive years at Fa Yuen Street show that irregularities including over-sized stall canopies and stalls built with non-fire resisting materials, street obstruction by commodities and overnight storage of commodities beyond the stall area may increase the risks of outbreak and spread of fire. Therefore, as a fundamental measure in the fire protection of hawker stalls, it is incumbent upon the Administration to continue with strict enforcement of the licensing conditions. Following the fire at Fa Yuen Street in 2011, FEHD has immediately inspected all streets in which stalls are concentrated and stepped up enforcement actions against non-compliance cases.
- 4.4 In fact, as far as Fa Yuen Street is concerned, after the fire in 2010, FEHD had repeatedly urged and warned the hawkers in the street to keep the emergency access free from obstruction. In early 2011, FEHD issued letters to all stall hawkers there, clearly stipulating its requirements for the dimensions of the pitches during and outside business hours, and stating that no overnight storage of commodities outside stall area would be allowed. However, as irregularities remained rampant, FEHD issued letters to all stall hawkers there again in November 2011, reiterating the requirements for the stalls and requesting their compliance, failing which they would be dealt with in strict accordance with the law. As for fixed pitch hawker areas in other areas, following the fire at Fa Yuen Street in 2011, FEHD has repeatedly requested stall hawkers to remove combustible materials from stall canopies immediately, to stop storing commodities outside the approved pitch area overnight, and to store all commodities within the enclosed fire resisting stall structures after the close of business. Prosecutions have been taken only against hawkers who had repeatedly ignored FEHD's advice and warnings.
- 4.5 The irregularities have remained serious in individual hawker areas. In view of this, starting from late December last year, FEHD focused on cracking down against the following four types of irregularities to minimise the fire risks posed by hawker stalls:
- (a) stall canopies made of or covered with combustible materials;

- (b) overnight storage of goods outside the approved stall areas;
- (c) obstruction of passageways; and
- (d) illegal stall subletting.

In addition, other items including wooden carts, wooden frames, goods covered with canvas, plastic sheets or wire mesh, miscellaneous articles and equipment must be removed after business hours. After enforcement actions have been taken for over a month, the initiatives have gradually been producing results. FEHD will continue to take enforcement action vigorously in the light of the actual situation and call upon hawkers in various districts to cooperate with FEHD.

- 4.6 Relevant Government departments also have to address the fire risks posed by the exterior of buildings adjacent to hawker stalls, such as unauthorised canopies of buildings/shops, especially those which are made with combustible materials.

Implementation of the mechanism for cancellation of hawker licences
(Relevant stakeholders are being consulted)

- 4.7 According to past experience in stall management, reliance on the self-discipline of traders and strengthening of law enforcement alone are not sufficient. There are stall hawkers who persist in blatantly violating regulations despite repeated prosecutions. In 2010, there were in total about 7 000 convicted cases involving licensed hawkers or their assistants, etc, 28% of whom had been prosecuted four times or more and 18.5% of whom had even been prosecuted six times or more. The Public Health and Municipal Services Ordinance (Cap. 132) and the Hawker Regulation (Cap. 132AI) have prescribed penalties for various offences, and FEHD has taken vigorous law enforcement actions and stepped up enforcement efforts as the circumstances may require. Despite all these, some undisciplined hawkers often relapse into committing irregularities after prosecutions. Some people consider that, obviously, we cannot solely rely on prosecution and fines to effectively deter licensed hawkers' recidivist behaviour. In view of some hawkers' disregard for the existing penalties and to enhance the effectiveness of law enforcement work, we proposed in December last year to introduce a mechanism for the cancellation of hawker licences with a view to achieving a greater deterrent effect.

- 4.8 The Administration proposes that if a licensed hawker is convicted for six times within three months for breaching any hawker-related provisions under the Hawker Regulation, the Director of Food and Environmental Hygiene (DFEH) may consider cancelling his/her hawker licence in accordance with the mechanism. Harsher penalties should be imposed for serious offences, including stall subletting, illegal connection of electricity and providing false information to obtain a hawker licence. Stall subletting considerably increases the fire risks by aggravating the problem of unauthorised trading outside the approved area, and illegal connection of electricity can even cause fire. Providing false information in order to acquire

a hawker licence is also a serious offence. Therefore, the Administration suggests that if a licensee has committed any one of these three offences, DFEH may consider immediate cancellation of his/her hawker licence.

- 4.9 The Administration also suggests that if the licensee is dissatisfied with the decision of DFEH, he/she may make representations. If DFEH affirms his decision to cancel the hawker licence and the licensee is dissatisfied with the decision, he/she may appeal to the Licensing Appeals Board (LIAB). If the licensee is also dissatisfied with the decision of the LIAB, he/she may appeal to the Municipal Services Appeals Board. The Administration is consulting the public and relevant stakeholders (including the DCs and representatives of stall hawkers) on the mechanism for cancellation of hawker licences.

Possible medium and long-term options

- 4.10 Licensed hawkers are obliged to comply with the licensing conditions. In processing applications for renewal of hawker licences in future, FEHD will take into account the track records of the hawkers concerned in complying with the licensing conditions. To further enhance fire safety, the Working Group has examined different medium and long-term options with a view to minimising the potential fire risks posed by hawker stalls to adjacent buildings. In examining these options, our major considerations include their effectiveness in enhancing the fire safety of hawker stalls and their impact on the overall environment of hawker areas. These options include the arrangements of “overnight storage of commodities only inside enclosed metal stall structures”, “dismantling of stalls and removal of all commodities after close of business at night”, resiting of the hawker areas, resiting of hawker stalls in front of staircase discharge points of buildings, installation of fixed fire resisting structures to enclose stalls on three sides and the top cum installation of sprinkler system, as well as the introduction of a voluntary licence surrender scheme for fixed pitch hawkers.
- 4.11 In the light of the two serious fires at the hawker stalls at Fa Yuen Street, the Government will first study and implement measures to further reduce fire risks posed by the hawker stalls there, and then review their effectiveness. As for hawker stalls in other streets, different locations have their own specific conditions, such as width of road surface, distance between stalls and adjacent buildings, layout and number of stalls, and their potential fire risks, etc. As such, we do not consider that there will be a one-size-fits-all package of measures which can be implemented across the board. When devising improvement measures on the basis of individual hawker areas, we will consider their surrounding physical environment and take into account the views of local stall hawkers, residents and the respective DCs.

“Overnight storage of commodities only inside enclosed metal stall structures (without the need to dismantle the stall)”

4.12 Many members of the public put forward the option of “overnight storage of commodities only inside enclosed metal stall structures”, which means no storage of commodities outside the hawker stalls. However, different people have different interpretations of the exact arrangements under this option:

4.12.1 Some people consider that “without dismantling the stalls” means stall hawkers can only keep the enclosed metal boxes (i.e. “cabinets”) which are built within the approved area and to the specified dimensions after business hours. Goods can be stored inside the “cabinets” but other items have to be removed. For stall hawkers, they will have to identify places for overnight storage of goods and some of them may need to hire services to take care of the daily removal of goods. As far as we know, quite a few stall hawkers are already renting nearby places for storage of goods.

4.12.2 Some hawker associations are now urging for the permission of overnight storage of other equipment (such as metal frames, empty metal containers or carts, etc.) outside the approved area in addition to the “cabinets” mentioned in paragraph 4.12.1.

4.13 At present, FEHD allows stall hawkers to display their goods outside the approved area during business hours (as long as no obstruction to passageways and emergency vehicular access is created). It has also tolerated to a certain extent equipment being placed outside hawker stalls. However, the two fires at Fa Yuen Street show that stall hawkers have stored excessive goods, including combustible goods (such as garments made of synthetic fibres), on the streets after close of business. If a fire breaks out during closing hours at night, it will spread quickly as the hawker stalls are left unattended. The situation is made worse by the fact that nearby residents’ alertness to emergencies and readiness to escape are very much reduced at night. The Administration considers that stall hawkers should store their goods inside the FEHD-approved enclosed metal structures after close of business. No goods can be stored outside the structures. This is the most basic requirement in reducing fire risks. To allow stall hawkers to place metal frames, metal containers or carts outside the approved stall area at night would be tantamount to expanding the approved stall area, which would easily lead to obstruction of passageways and increase fire risks. Besides, the proposal in paragraph 4.12.2 would rely too much on the self-discipline of stall hawkers and would turn out to be a catalyst for overnight storage of goods. It is also difficult for FEHD staff to determine whether there are goods stored inside the equipment. The permissible types, sizes and dimensions of equipment may also lead to disputes. The following photographs show the overnight storage of commodities beyond the approved stall area, and the two types of arrangements of “overnight storage of commodities only inside enclosed metal stall structures” mentioned in paragraphs 4.12.1 and 4.12.2 respectively:



Photo 4: Overnight storage of commodities beyond the approved stall area currently practised by some stall hawkers



Photo 5: Overnight storage of commodities inside the “cabinets” as stated in paragraph 4.12.1



Photo 6: Overnight storage of commodities outside the “cabinets” as stated in paragraph 4.12.2

- 4.14 At present, following FEHD's enhanced enforcement actions at Fa Yuen Street, the effect of the option of "overnight storage of commodities only inside enclosed metal stall structures" as stated in paragraph 4.12.1 has been generally achieved. As for hawker stalls in other areas, we consider that any possible inconvenience arising from the option as stated in paragraph 4.12.1 can be gradually minimised provided that a suitable transitional period is provided. As this option brings fewer changes to the existing operation of hawker stalls, it is believed to be suitable for implementation at Fa Yuen Street and in various other hawker areas. However, this option is not applicable to the hawker stalls which have already adopted the operation mode of "dismantling of stalls and removal of all commodities after close of business at night" as stated in paragraphs 4.16 to 4.17 below.
- 4.15 From the perspective of fire safety, although hawkers are present to look after their stalls during trading hours, fire risks should not be neglected in these areas which are densely packed with hawker stalls, pedestrians and commodities. Even if the option of "overnight storage of commodities only inside enclosed metal stall structures" may help reduce fire risks outside trading hours, it fails to enhance the fire safety standard of stalls during daytime.

"Dismantling of stalls and removal of all commodities after close of business at night"

- 4.16 The arrangement of "dismantling of stalls and removal of all commodities after close of business at night" refers to the mode of operation under which stall hawkers should dismantle and remove metal frames and other paraphernalia during closing hours at night. Stalls are set up and goods are displayed again before trading hours during the day. When compared to the arrangement that allows the putting up of permanent structures in the vicinity of residential buildings and overnight storage of goods, this arrangement can more thoroughly eliminate the potential fire risks posed by the stalls during closing hours at night.
- 4.17 Nevertheless, the analysis in respect of "overnight storage of commodities only inside enclosed metal stall structures" as stated in paragraph 4.15 above suggests that the option of "dismantling of stalls and removal of all commodities after close of business at night" cannot reduce the fire risks posed by the stalls during trading hours. If this option is implemented, stall hawkers will have to find places for overnight storage of goods and may also need to hire services for the daily dismantling and setting up of stalls and other paraphernalia. This mode of operation will inevitably increase the costs. According to the experience of those stalls adopting the option of "dismantling of stalls and removal of all commodities after close of business at night" at present (e.g. hawker stalls at Tung Choi Street and Temple Street), the dismantling and setting up of metal frames cause noise nuisance to nearby residents. FEHD has received complaints against the noise arising from the hawker areas which adopt this option. The current trading hours of stalls at Fa Yuen Street are from 6 a.m. to 11 p.m. If this option is adopted, the trading hours of stalls may need to be adjusted in order to avoid creating noise problems at night. This may adversely affect the hawkers' operating environment.

Resiting of hawker areas

4.18 Hawker areas are places where people congregate and are usually adjacent to residential buildings. Resiting hawker areas can thoroughly eradicate the potential fire risks posed by hawker stalls to adjacent buildings and places where people congregate. The stall hawkers affected can choose to continue their business at vacant stalls in nearby public markets or at vacant sites identified by the Government. However, the existing vacant stalls in public markets in different districts may not be able to accommodate all the affected fixed pitch hawkers and such vacant stalls may not be suitable for use as hawker stalls. Besides, it is difficult to identify a vacant site for the resiting of an entire hawker area. Even if a site is identified, residents living in the vicinity may raise objection because of the environmental hygiene problems arising from hawker stalls. Moreover, there are many views in the community that hawker areas should be retained as they are rich in traditional characteristics and a part of the local culture. Resiting an entire hawker area to a public market or another site may ruin the original character of hawker stalls. Due to the fundamental change in the business environment, stall hawkers affected may not be willing to leave the original hawker area.

Resiting of hawker stalls in front of staircase discharge points of buildings

4.19 The Fa Yuen Street fire in 2011 has shown that if hawker stalls are set up in front of staircase discharge points of buildings, in the event of a fire, fire may easily spread to staircases, thus creating the “chimney effect”. This would put the residents upstairs in great peril. As such, resiting these stalls away from the staircase discharge points will help reduce the risks. FSD is of the view that no stalls should be located within the radial distance of six metres in front of the staircase discharge points of buildings (regardless of whether it is a single-staircase building or multi-staircase building). (See **Plan 1**.) With respect to Fa Yuen Street, around 30% of the stalls will have to be resited if this option is implemented. Depending on the actual situation, this option may have a bigger impact on some other hawker areas. Apart from the difficulties in identifying sites for resiting the stalls as mentioned in paragraph 4.18 above, mass resiting of hawker stalls will also inevitably affect the overall business environment of the hawker area at Fa Yuen Street. Furthermore, according to FSD, if a carriageway on which hawker stalls are located has been designated as emergency vehicular access during planning stage, a clear width of at least six metres should be maintained so as to cater for the passage of fire engines and the operation of aerial ladders / platforms. If, due to the existence of hawker stalls, the carriageway becomes less than six metres wide, all the hawker stalls on one side or even both sides of the road will have to be resited to provide a carriageway width of at least six metres for vehicles to pass through.

Installation of fixed fire resisting structures to enclose stalls on three sides and the top cum installation of sprinkler system

- 4.20 There are views in the community that the hardware of hawker stalls should be enhanced with a view to thoroughly improving the fire safety of these stalls. One proposal which has been suggested is whether to equip hawker stalls with fire service installations (e.g. sprinkler system). The Working Group has studied the measures in this respect. According to FSD and the Buildings Department, it will be an effective fire safety measure if hawker stalls are enclosed on three sides and the top with structures constructed with fire resisting materials which offer a fire resistance period of at least one hour and sprinkler systems are installed within the structures. (See **Plan 2**.) If this option is adopted, FSD considers that the restriction on setting up stalls within the radial distance of six metres in front of the staircase discharge points of buildings as stated in paragraph 4.19 above can be relaxed as appropriate (but both sides of a stall structure should maintain at least a six-metre distance from the staircase discharge points to ensure that they are kept clear of excessive fire load), and that stalls on a row can be adjoined. (See **Plan 3**.)
- 4.21 From the perspective of fire prevention, this option may be very desirable. Nevertheless, it is fraught with many practical difficulties. This will be a large-scale outdoor project. According to the preliminary estimation, the project cost of installing these facilities at Fa Yuen Street stalls will be over \$30 million for all the 222 stalls there, i.e. about \$135,000 for each stall, representing a substantial increase in the operating cost of the stalls. The works period of the whole project, to be carried out at Fa Yuen Street by phases, will last for at least over one year. During this period, all stall hawkers have to suspend their business for at least about three months. The works will also affect shops and residents nearby to a certain extent. As the fire resisting structures must be secured on the ground with a concrete plinth and the sprinkler system has to be connected to the water supply source, the structures will not be readily movable. The existing communal facilities (mainly water main) under the stalls at Fa Yuen Street will have to be diverted for routine maintenance. Besides, stall owners will have to be responsible for the future maintenance and cleansing work of the relevant facilities.
- 4.22 Besides, the height of the fire resisting structures with the sprinkler system must be increased to 3.2 metres, compared with the existing permitted maximum height of 2.5 metres. The appearance of the stalls will be much bulkier than that of the existing ones. As the fire resisting structures have to enclose stalls on three sides and the top, in summer the temperature inside the stalls is expected to be higher. Stall hawkers will only be able to run their business and display their goods on one side. The installation of fire resisting structures and sprinkler system will inevitably turn the stalls into semi-permanent structures. This may completely change the non-permanent operating nature of traditional hawker stalls. Therefore, an in-depth study must be conducted. We have to carefully consider the impact on the overall environment of hawker areas as well as views of stall hawkers, nearby shops and residents.

4.23 While Fa Yuen Street is wide enough to accommodate two rows of fire resisting structures with the sprinkler system and a six-metre wide access for emergency vehicles, a number of other streets with hawker stalls are very narrow. If this option is adopted, these streets may not be able to accommodate two rows or even one row of fire resisting structures with sprinkler system and a six-metre access for emergency vehicles. A number of hawker stalls at these streets may have to be resited as a result.

Voluntary licence surrender scheme for fixed pitch hawkers

4.24 According to FEHD's observation in recent years, many fixed pitch hawkers are elderly people who no longer fully competent to operate their business properly. However, most of them still continue to renew the licence annually and employ assistants to run the business almost totally on their behalf. In practice, these stalls are no longer operated by the licensees. This is an unsatisfactory arrangement which easily breeds subletting. As such, we suggest that a voluntary licence surrender scheme for fixed pitch hawkers be introduced by making reference to the voluntary licence surrender scheme for "Dai Pai Tongs" and itinerant hawkers, so as to encourage elderly fixed pitch hawkers to surrender their licences.

4.25 Besides, some members of the community consider that as many hawker areas are located at densely populated places, the number of hawkers in hawker areas should be controlled with due regard given to district aspirations and local characteristics (e.g. space availability), so as to protect the safety of the general public. We can achieve this aim through the introduction of a voluntary licence surrender scheme so that some on-street stalls can be vacated to make room for re-location other stalls to take place. For instance, in order to safeguard public safety, stalls can be moved away from the staircase discharge points of all buildings and the streets can be restored to their original width required for the use of emergency vehicles. In this connection, we propose that the scheme should also be applicable to those non-elderly fixed pitch hawkers who fulfil certain eligibility criteria.

4.26 The Licensing Authority is not obliged to offer any compensation upon termination of licences. That said, if the community supports the voluntary licence surrender scheme for fixed pitch hawkers and the implementation of the scheme is in the public interest, a time-limited EGP scheme may be introduced with reference to the former voluntary surrender scheme for CFS hawker licences and the on-going voluntary surrender scheme for IHLs.

Discussion

4.27 Reducing the fire risks posed by the stalls requires our immediate attention. As stated in paragraph 4.2 above, hawkers, DCs and society as a whole should have the determination to improve the fire safety management of hawker stalls. Given

the distinctive geographical and surrounding environment of individual hawker areas, the varying number of stalls involved, as well as the different licensing conditions and modes of operation, the options mentioned in paragraphs 4.12 to 4.23 above may not be practicable in some hawker areas. The options which require hawkers to make fundamental changes, such as resiting of hawker areas or the installation of fixed fire resisting structures to enclose stalls on three sides and the top cum installation of sprinkler system at stalls, involve many considerations and restrictions. It is anticipated at this stage that implementing these options will entail many practical difficulties and involve stakeholders from many different sectors. We therefore envisage that more time will be needed for detailed study, analysis and public discussion in order to ascertain the feasibility and acceptability of the options.

- 4.28 On the other hand, in the light of the ability of the existing enclosed metal boxes (i.e. “cabinets”) to contain the spread of fire to some extent, we consider that it is practical to first implement the arrangement of “overnight storage of commodities only inside enclosed metal stall structures” mentioned in paragraph 4.12.1 (i.e., all commodities should be removed at night except for the “cabinets” and the commodities inside), and then progressively require stall hawkers to use materials which offer a fire resistance period of at least one hour, instead of ordinary metals, to construct the “cabinets” (and canopies of stalls), and try as far as possible to resite hawker stalls in front of staircase discharge points of buildings. This will considerably reduce the fire risks at night without making fundamental changes to the operation of hawker stalls and be able to tie in with the implementation of other options which can reduce the fire risks posed by hawker stalls during daytime and at night in a more comprehensive and effective manner.
- 4.29 As mentioned in paragraph 4.11 above, in the light of the serious fires at the hawker stalls at Fa Yuen Street, the Government will, subject to the outcomes of the consultation on the proposed options mentioned in paragraphs 4.12 to 4.23 above, first implement improvement measures to further reduce fire risks posed by the hawker stalls at Fa Yuen Street, and then review their effectiveness. As to whether the options are suitable for on-street hawker stalls, we will study and evaluate the actual situation of individual hawker stall areas in the next stage. As regards the proposed voluntary licence surrender scheme for fixed pitch hawkers mentioned in paragraphs 4.24 to 4.26 above, if supported, it will be implemented throughout the territory at a suitable juncture for the sake of fairness.

Chapter 5 Views Sought

5.1 As two serious fires have broken out at the hawker stalls at Fa Yuen Street, there is an imminent need to improve the management of the hawker stalls to reduce the fire risks posed by the stalls and safeguard public safety. The purpose of this consultation exercise is to gauge the views of the public and stakeholders on the implementation of the fire safety improvement measures at the hawker stalls at Fa Yuen Street first.

5.2 The consultation paper has presented a number of possible medium and long-term options, including the arrangements of “overnight storage of commodities only inside enclosed metal stall structures” and “dismantling of stalls and removal of all commodities after close of business at night”, resiting of the hawker area at Fa Yuen Street, resiting of hawker stalls in front of staircase discharge points of buildings, installation of fixed fire resisting structures to enclose stalls on three sides and the top cum installation of sprinkler system, as well as the introduction of a voluntary licence surrender scheme for fixed pitch hawkers.

- (a) Which option(s) do you think should also be implemented at the hawker stalls at Fa Yuen Street? Which option(s) can be implemented in other hawker areas in future?
- (b) Do you agree that the Government should study and implement the option to further reduce the fire risks posed by the stalls at Fa Yuen Street first and observe its effectiveness before considering imposing the relevant improvement measures on stalls at other streets? (paragraph 4.11)
- (c) With regard to the option of “overnight storage of commodities only inside enclosed metal stall structures”, do you agree that the arrangement stated in paragraph 4.12.1 is more desirable than the one stated in paragraph 4.12.2 in the effective management of fire risks? (paragraphs 4.12 to 4.15)
- (d) Is the option of “dismantling of stalls and removal of all commodities after close of business at night” acceptable? Can it reduce fire risks effectively? (paragraphs 4.16 to 4.17)
- (e) Is the option of resiting hawker areas feasible and acceptable? (paragraph 4.18)
- (f) Is the option of resiting hawker stalls in front of staircase discharge points of buildings feasible and acceptable? (paragraph 4.19)
- (g) Is the installation of fixed fire resisting structures to enclose stalls on three sides and the top cum installation of sprinkler system feasible and acceptable? (paragraphs 4.20 to 4.23)

- (h) Should the Government implement a time-limited voluntary licence surrender scheme for fixed pitch hawkers? (paragraphs 4.24 to 4.26)
- (i) Do you agree that it is a practicable option in the medium term to implement the arrangement of “overnight storage of commodities only inside enclosed metal stall structures” mentioned in paragraph 4.12.1, and progressively require stall hawkers to use materials which offer a fire resistance period of at least one hour, instead of ordinary metals, to construct “cabinets” (and canopies of stalls), and try as far as possible to resite hawker stalls in front of staircase discharge points of buildings? (paragraphs 4.28)
- (j) Do you have suggestions on other feasible options apart from those mentioned in this Paper?

5.3 Please forward your views and comments to the Food and Environmental Hygiene Department on or before 7 May 2012 by mail, electronic mail or facsimile:

Address: **Hawkers and Markets Section
Headquarters Division
Environmental Hygiene Branch
Food and Environmental Hygiene Department
45/F, Queensway Government Offices
66 Queensway, Hong Kong**

E-mail address: **hawkermanagement@fehd.gov.hk**

Fax No.: **(852) 2530 1368**

- 5.4 It is voluntary for any member of the public to supply his/her personal data upon providing views on the consultation document. Any personal data provided with a submission will only be used for the purpose of this consultation exercise.
- 5.5 The submissions and personal data collected may be transferred to the relevant Government bureaux and departments for purposes directly related to this consultation exercise. The Government bureaux and departments receiving the data are bound by such purposes in their subsequent use of such data.
- 5.6 The names and views of individuals and organisations which put forth submissions in response to the consultation document (“senders”) may be published for public viewing after conclusion of the public consultation exercise. This Bureau may, either in discussion with others or in any subsequent report, whether privately or publicly, attribute comments submitted in response to the consultation document. We will respect the wish of senders to remain anonymous and/or keep the views confidential in relation to all or part of a submission; but if no such wish is indicated, it will be assumed that the sender can be named.

- 5.7 Any sender providing personal data to this Bureau in the submission will have right of access or correction with respect to such personal data. Any requests for data access or correction of personal data should be made in writing to:

Hawkers and Markets Section
Headquarters Division
Environmental Hygiene Branch
Food and Environmental Hygiene Department
45/F, Queensway Government Offices
66 Queensway, Hong Kong
(Email Address: hawkermanagement@fehd.gov.hk)
(Fax Number: (852) 2530 1368)

Food and Environmental Hygiene Department
Food and Health Bureau

February 2012

Types of Hawkers and their Numbers

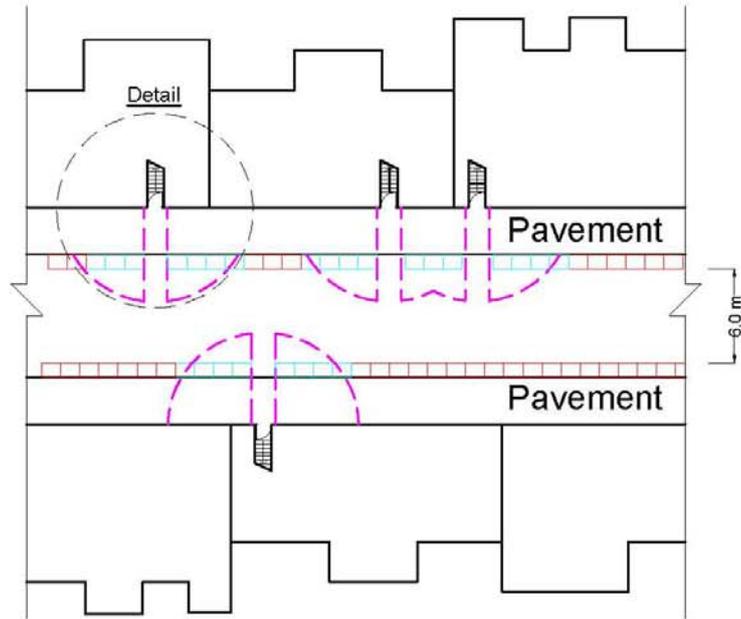
(As at 31 December 2011)

Type	Number of fixed pitch hawkers	Number of itinerant hawkers
On-street fixed hawker pitches not specifically following the arrangement of “dismantling of stalls and removal of all commodities after close of business at night”	about 3 400	-
On-street fixed hawker pitches following the arrangement of “dismantling of stalls and removal of all commodities after close of business at night”	about 1 100	-
Bootblack	5	-
Cooked food or light refreshment	233	-
Newspaper	533	2
Tradesmen	194	0
Barber	40	-
Wall stall	332	-
Frozen confection	-	77
Mobile van	-	16
Fixed hawker pitches at bazaars	609	-
Other types [#]	-	410
Total	6 480	505

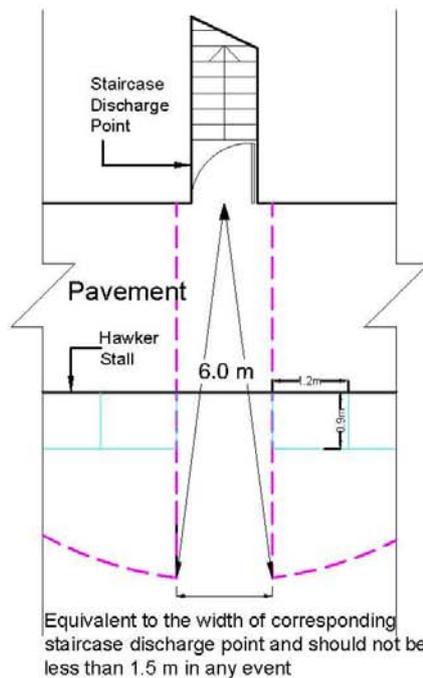
[#] e.g.: itinerant hawkers selling winter snacks (such as stir-fried chestnuts, etc.)

Resiting of Hawker Stalls in front of Staircase Discharge Points

Plan 1

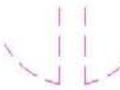


Plan



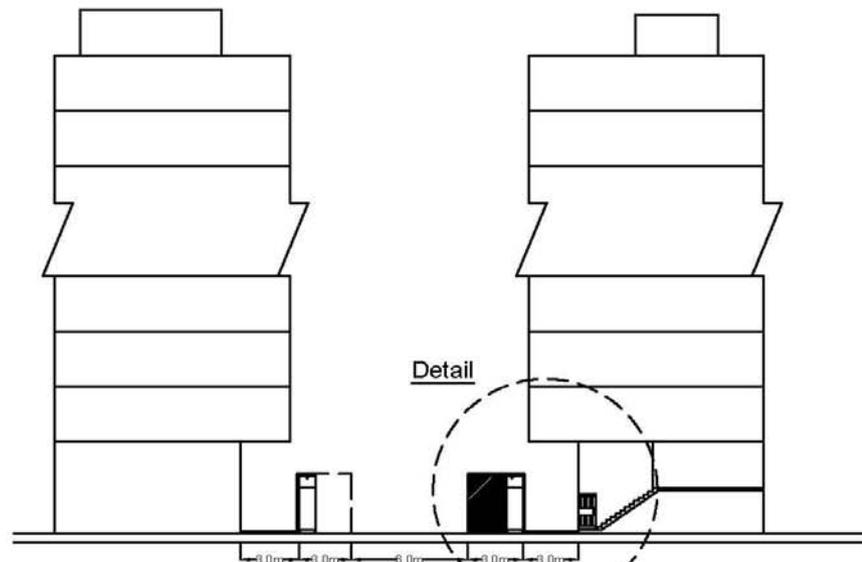
Detail

Legend

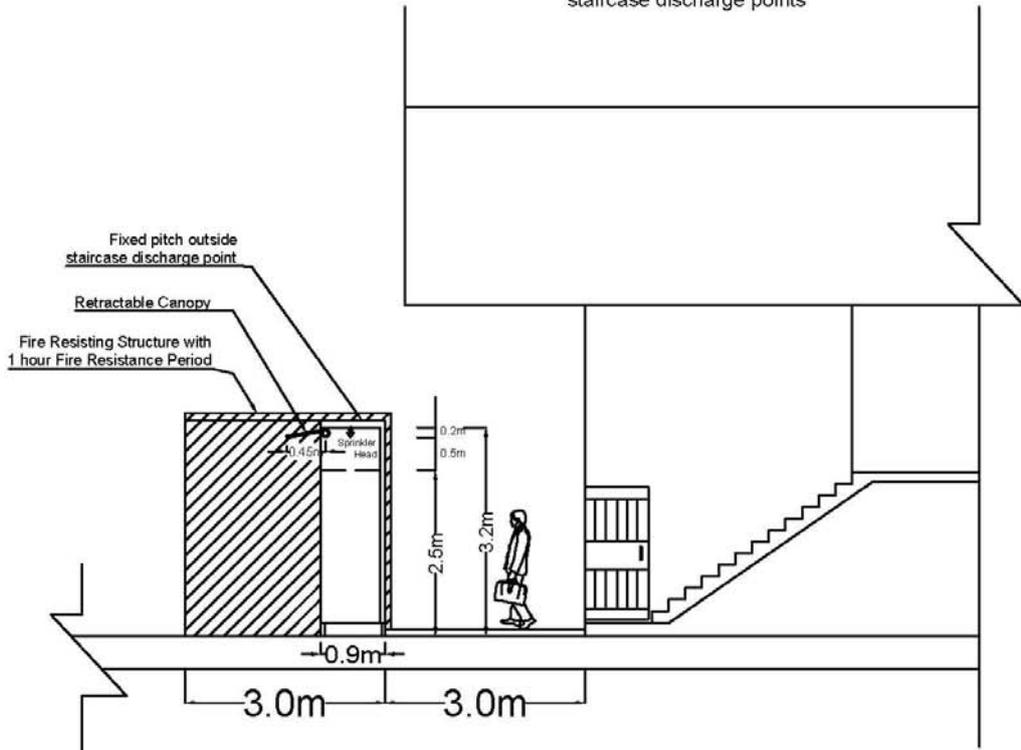
-  Clearance of 6.0 m radius from Building Staircase Discharge Point
-  Hawker stalls to be removed
-  Hawker stalls to be retained

Installation of Fire Resisting Structures and Sprinklers

Section



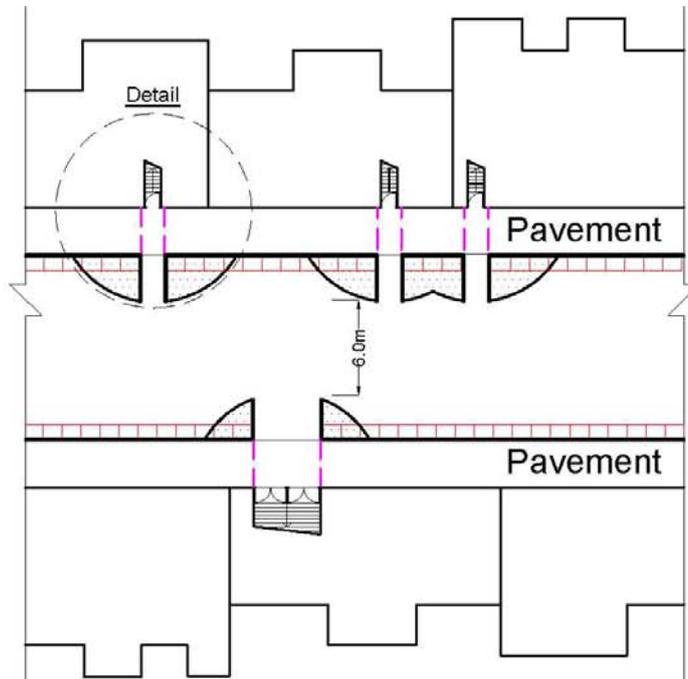
Fixed Pitch outside staircase discharge points



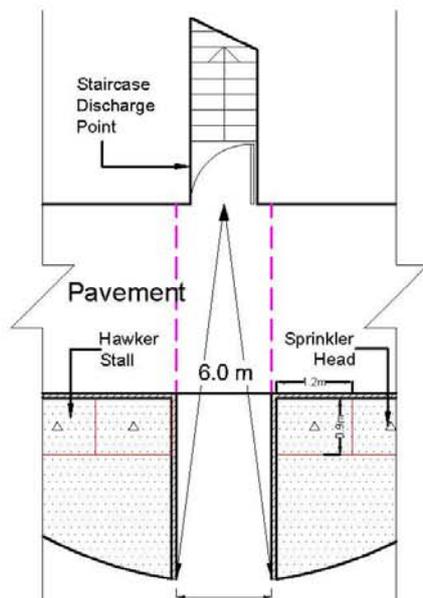
Detail

Hawker Stalls with Fire Resisting Structures and Sprinklers

Plan 3



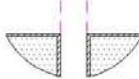
Plan



Equivalent to the width of corresponding staircase discharge point and should not be less than 1.5 m in any event

Detail

Legend

-  Fire Resisting Structures
-  Hawker Stalls to be retained
-  Sprinkler Head