

TPB PG–NO. 22D

**TOWN PLANNING BOARD GUIDELINES FOR
DEVELOPMENT WITHIN “OTHER SPECIFIED USES (BUSINESS)” ZONE**

(Important Note:

The Guidelines are intended for general reference only.

Any enquiry on this pamphlet should be directed to the Secretariat of the Town Planning Board (15th Floor, North Point Government Offices (NPGO), 333 Java Road, North Point, Hong Kong – Tel. 2231 4810 or 2231 4835) or the Planning Enquiry Counters of the Planning Department (Hotline: 2231 5000) (17th Floor, NPGO and 14th Floor, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin).

The Guidelines are subject to revision without prior notice.)

1. Introduction

- 1.1 The “Other Specified Uses” annotated “Business” (“OU(Business)”) zone has been introduced to allow maximum flexibility in the use of existing industrial and industrial-office (I-O) buildings as well as in the development of new buildings for both commercial and clean industrial uses. It is perceived as a combination of the “Commercial” and “Industrial” zones. However, it is not intended to replace either of them as both zones will still have an important role to play in ensuring an adequate supply of land for core commercial and industrial activities at appropriate locations.

- 1.2 The planning intention of the “OU(Business)” zone is primarily for general employment uses. Under the “OU(Business)” zoning, a mix of non-polluting industrial, office and other commercial uses will be permitted as of right in new developments of ‘business’ buildings. Industrial uses involving offensive trades declared under the Public Health and Municipal Services Ordinance will not be permitted within the “OU(Business)” zone. In order to ensure that the concerns on fire safety and environmental impacts are properly addressed, only less fire hazard-prone office use that would not involve direct provision of customer services or goods to the general public will be permitted as of right in existing industrial and I-O buildings within an “OU(Business)” zone. As it is not possible to phase out existing polluting and hazardous industrial uses all at once, it is necessary to ensure compatibility of the uses within the same building and in existing industrial areas until the whole area is transformed to cater for the new non-polluting business uses.

2. Scope and Application

- 2.1 This set of Guidelines sets out the definitions of relevant terms used in the user schedule of the “OU(Business)” zone and explains in detail the uses that are permitted within the zone.

3. Definition of Terms

Non-polluting Industrial Use

- 3.1 **Non-polluting Industrial Use** means any industrial use which does not involve activities that are detrimental to the occupants of the building and amenity of the area by reason of noise, waste water discharge, vibration, smell, fume, smoke, soot, ash, dust or grit.
- 3.2 In determining whether an industrial use falls within the meaning of ‘non-polluting industrial use’, reference should be made to the relevant ordinances such as the Air Pollution Control Ordinance, Water Pollution Control Ordinance, Waste Disposal Ordinance and Noise Control Ordinance, and their relevant technical memoranda and regulations as well as the relevant Government published guidelines such as the Hong Kong Planning Standards and Guidelines. Advice could also be sought from the relevant authorities such as the Director of Environmental Protection on a case-by-case basis.
- 3.3 In general, it includes uses involving prototyping, production, design, research and development, alteration, testing, quality control, adaptation, repair, assembly, packaging, storage and distribution of goods and materials without generating environmental pollution and nuisance to neighbours. It also includes information technology support and training for the enhanced productivity and delivery of the goods and materials involved in the aforementioned processes. Examples include custom-tailoring, fashion design and production, computer-aided design service, design and prototyping of electronic product and component, label/badge/button embossing, editing of newspapers, books and magazines for printing off the premises, photo-typesetting and typesetting, film developing and editing, packaging and quality inspection of finished products and after-sale repair of electrical appliances, furniture and office equipment.
- 3.4 It excludes industrial uses involving offensive trades declared under the Public Health and Municipal Services Ordinance and Specified Processes covered by the Air Pollution Control Ordinance; activities which produce chemical waste; or other activities which generate residuals such as waste water, noise, aerial emissions, solid waste, runoff and odour, or create physical changes causing unacceptable impacts on other land uses or on

the environment.

- 3.5 Non-polluting Industrial Use (excluding industrial undertakings involving the use/storage of Dangerous Goods) refers to those industrial establishments falling within the definition set out in paragraph 3.1 above, and would not involve the use and/or storage of substances classified as Dangerous Goods which requires a licence under the Dangerous Goods Ordinance. Non-polluting industrial establishments which would involve the use and/or storage of small quantities of Dangerous Goods that are exempted from the licensing requirements will be permitted.

Office (excluding those involving direct provision of customer services or goods)

- 3.6 **Office (excluding those involving direct provision of customer services or goods)** means any office of such uses that would not attract frequently a large number of visitors to the premises by providing direct services or goods to customers or visiting members of the general public.
- 3.7 In general, the premises are to be used for 'office' function which would not attract a large number of visitors. Some examples include headquarters or back-office operations; professional consultants such as architects, engineers, surveyors, planning consultants, solicitors, accountants; and business services such as advertising agencies, management consultants, public relations agencies and interior/graphic design offices.
- 3.8 Establishments which may be frequently visited by the general public, such as travel agents, property agents, employment agencies, investment broker firms, money lending offices, ticketing and sales offices and tourist information offices would be considered as general office use, and planning permission is required from the Board in industrial and I-O buildings (except in the purpose-designed non-industrial portion on the lower floors of an existing building).

I-O Building

- 3.9 An I-O Building is defined as a dual-purpose building in which every unit of the building, other than that in the purpose-designed non-industrial portion, can be used flexibly for both industrial and office purposes. In terms of building construction, the building must comply with all relevant building and fire regulations applicable to both industrial and office buildings, including floor loading, compartmentation, lighting, ventilation, provision of means of escape and sanitary fitments.

4 Permitted Use/Development in an “OU(Business)” Zone

New Development

- 4.1 The following types of buildings are permitted as of right in the “OU(Business)” zone as new development or redevelopment/conversion of the whole building:
- (a) Business buildings providing accommodation for a mix of non-polluting industrial (excluding industrial undertakings involving the use/storage of Dangerous Goods), office and other commercial uses;
 - (b) Office buildings with or without retail and other commercial uses;
 - (c) Industrial buildings providing accommodation for non-polluting industrial uses (excluding industrial undertakings involving the use/storage of Dangerous Goods) and office uses (excluding those involving direct provision of customer services and goods); and
 - (d) I-O buildings providing accommodation for non-polluting industrial uses (excluding industrial undertakings involving the use/storage of Dangerous Goods), offices (excluding those involving direct provision of customer services and goods) on upper floors, and general offices with or without commercial uses in the purpose-designed non-industrial portion on the lower floors which will be separated from the industrial uses on the upper floors by a buffer floor.
- 4.2 All uses included in Column 1 of Schedule I of the user schedule for the “OU(Business)” zone will be permitted as of right in new development as well as redevelopment/conversion of an existing industrial or I-O building in whole to a ‘business’ building.
- 4.3 New development of industrial or I-O buildings, i.e. development with general building plans submitted and approved under the “OU(Business)” zoning, have to conform to uses specified under Column 1 of Schedule II of the user schedule unless otherwise permitted by the Town Planning Board through the planning permission system. For such development, if no industrial undertakings involving offensive trades or the use/storage of Dangerous Goods will be accommodated within the building and such intention is clearly specified in the building plan submission, general office use will be permitted as of right. Otherwise, only those office uses that would not involve direct provision of customer services or goods to the general public will be permitted as of right. This is to address the concern on fire safety within the building. By the same token, for a building with office uses involving direct provision of customer services or

goods, planning permission will not be granted for any proposed industrial undertakings involving the use/storage of Dangerous Goods that requires a licence under the Dangerous Goods Ordinance.

Existing Industrial or I-O Buildings

- 4.4 As specified in the covering Notes of the outline zoning plans, no action is required to make the existing use of any land or building conform to the relevant plan, including the “OU(Business)” zoning. All existing uses within an existing industrial or I-O building will be tolerated. However, any material change of use will have to be permitted in terms of the plan (see paragraph 4.8 below).
- 4.5 Whilst it is the intention to provide greater flexibility in the use of the existing industrial or I-O buildings before such buildings are redeveloped, it is necessary to ensure that the fire safety and environmental concerns are properly addressed. In view of the possible presence of existing polluting and hazardous industrial uses, it is necessary to ensure compatibility of the uses within the same building until the whole building is modified/converted to accommodate the new non-polluting and less fire hazard-prone uses. In such circumstances, Schedule II of the user schedule for the “OU(Business)” zone provides that only office use which would not involve direct provision of customer services or goods to the general public will be permitted as of right in existing industrial or I-O buildings. Other office, commercial and institutional uses specified under Column 2 of Schedule II will require planning permission from the Town Planning Board. The provision for planning application for shop and services is restricted to those located at the ground floor only due to fire safety concerns. However, ancillary showroom use of up to 20% of the total usable floor area of an industrial firm in the same premises or building will be permitted without application. Ancillary showroom exceeding the 20% threshold may also be permitted on any floor of the building upon application to the Board.
- 4.6 The Fire Services Department (FSD) should be satisfied on the risks likely to arise or increase from the proposed commercial use under application. Owing to fire safety concern, the aggregate commercial floor areas¹ on the ground floor of an existing industrial/I-O building with and without sprinkler systems should as a general principle not exceed 460m² and 230m² respectively. For any application which would result in a slight exceedance of the relevant floor area limit, the applicant has to demonstrate that the fire safety concern can be satisfactorily addressed, and each case will be considered by the Board on its own merits. The above limits on commercial floor area do not

¹ In calculating the floor area, staircases, common circulation areas, lift landings, lavatories, water closets and any space occupied by machinery for any lift, air-conditioning system or similar service provided for the building may be excluded.

apply to uses which are ancillary to or for the purposes of supporting the industrial activities and the routine activities of the workers in the industrial or I-O building. These uses include bank, fast food counter (sited at street level without seating accommodation and licensed as food factory), electrical shop (selling electrical accessories usually with repairing services and small in scale), local provisions store (selling cigarettes, drinks, canned food and other local convenience goods, and small in scale) and showroom in connection with the main industrial use. Any prospective applicant may check with the Planning Department on the aggregate commercial floor area figure in the concerned industrial or I-O building. Moreover, the 230m²/460m² criteria do not apply to cases involving conversion of the low zone of an existing industrial or I-O building for commercial uses if the commercial portion is completely separated from the industrial or I-O portion on the upper floors by a buffer floor of non-hazardous occupancy such as a car-parking floor. In all cases, separate means of escape should be available for the commercial portion. Also, FSD will not support commercial uses in the basement(s) of an industrial or I-O building as the basement(s) are more susceptible to fire risk and pose more serious hazards when involved in fire.

- 4.7 For an existing I-O building, commercial uses and general office use will be permitted as of right in the purpose-designed non-industrial portion on the lower floors of an existing building (excluding basement(s) and floors containing wholly or mainly car parking, loading/unloading bays and/or plant room) provided such uses are separated from the industrial or I-O use located above by a buffer floor of non-hazardous occupancy, such as a car-parking or loading/unloading floor. No industrial uses will be permitted to co-exist with the commercial uses in the non-industrial portion.

Material Change of Use in Part of Existing Industrial or I-O Buildings

- 4.8 When there is a material change of use, say, from one type of industrial use to another, or from non-industrial to industrial, the proposed use must be permitted in terms of the extant OZP. In this respect, only non-polluting industrial uses without the use/storage of Dangerous Goods that requires a licence under the Dangerous Goods Ordinance will be permitted as of right in order to avoid the perpetuation and/or aggravation of the potential interface problems.

5. Other Statutory and Non-statutory Requirements

- 5.1 For all new development, redevelopment, conversion and material change of use, adequate parking and loading/unloading spaces should be provided in accordance with the requirements of the Hong Kong Planning Standards and Guidelines, and all other statutory or non-statutory requirements of relevant Government departments must also be met. These include building structure, means of escape and fire safety requirements, which will be considered at the building plan submission stage.

TOWN PLANNING BOARD

September 2007

Details of Previous s.16 Application covering the Application Premises

Application No.	Zoning	Unit No.	Applied Use(s)	Date of Consideration	Decision	Rejection Reasons
A/TM/274	“Industrial”	Unit 4	Private Club for Fitness Centre	16.2.2001	Rejected	(a) to (c)

Rejection Reasons

- (a) the development under application is not in line with the planning intention of the "Industrial" zone which is to provide land for industrial developments, including general industrial uses, service trades and warehouses. There is no strong justification in the submission to demonstrate the need for the establishment of the fitness centre in the subject industrial building;
- (b) the fitness centre does not comply with the criteria of the Town Planning Board Guidelines No. 7A in that the fitness centre is totally unrelated to industrial uses and that the fitness centre is not in support of the industrial establishments or providing convenience to workers; and
- (c) the approval of the application would set an undesirable precedent for similar conversion of industrial floor space for non-industrial uses.

Details of Similar s.16 Applications covering the Subject Building

Application No.	Zoning	Application Premises (G/F)	Applied Use(s)	Date of Consideration	Decision	Approval Conditions/ Rejection Reasons
A/TM/489	“OU(B)”	Unit 3	Shop and Services (Furniture Showroom)	24.6.2016	Approved with conditions	(a) & (b)
A/TM/492	“OU(B)”	Workshop 2	Shop and Services (Furniture Showroom)	30.9.2016	Rejected	(1) & (2)

Approval Conditions

- (a) the submission of a fire service installations and equipment proposal to the satisfaction of the Director of Fire Services or of the TPB; and
- (b) the implementation of the fire service installations and equipment proposal to the satisfaction of the Director of Fire Services or of the TPB

Rejected Reasons

- (1) shop and services use at the premises does not comply with the Town Planning Board Guidelines No. 22D for Development within “Other Specified Uses” annotated “Business” Zone in that the total floor area accountable for the aggregate commercial floor area has exceeded the maximum permissible limit of 460m².
- (2) The shop and services use is unacceptable from fire safety point of view

**Details of Similar s.16 Applications in Other Industrial Buildings within
“OU(B)” zone in Tuen Mun since 2012**

A. Approved Applications

Application No.	Application Premises (G/F)	Applied Use(s)	Date of Consideration	Approval Conditions
A/TM/431*	17, 17A	Shop and Services (Retail Shop)	30.3.2012	(a) & (b)
A/TM/479	161	Shop and Services (Real Estate Agency)	4.9.2015	(c)

* *Renewal Application of a planning approval for temporary ‘Shop and Services (Retail Shop)’ use. Previous applications No. A/TM/355, A/TM/362, A/TM/375, A/TM/382, A/TM/393 and A/TM/431 were approved on a temporary basis for a period of 3 years.*

Approval Conditions

- (a) the submission of fire service installations and equipment proposal for the application premises within 6 months from the date of commencement of the renewed planning approval.
- (b) the provision of fire service installations and equipment in the application premises within 9 months from the date of commencement of the renewed planning approval.
- (c) the submission and implementation of fire safety measures including the provision of a separate means of escape for and provision of fire service installations in the application premises.

B. Rejected Applications

Application No.	Application Premises (G/F)	Applied Use(s)	Date of Consideration	Rejection Reasons
A/TM/472	183	Shop and Services (Real Estate Agency)	3.7.2015	(1)
A/TM/473	111 (Part)	Shop and Services (not specified)	3.7.2015	(1)
A/TM/474	126 (Part)	Shop and Services (not specified)	17.7.2015	(1)
A/TM/475	114 (Part)	Shop and Services (not specified)	17.7.2015	(1)
A/TM/476	51 (Part)	Shop and Services (not specified)	13.11.2015 (Rejected on review)	(1)

Main Reason for Rejection

- (1) The use at the premises does not comply with the Town Planning Board Guidelines for Development within “Other Specified Uses” annotated “Business” Zone (TPB PG-No. 22D) in that means of escape separated from the industrial portion is not available for the application premises. The applied use is unacceptable from fire safety point of view.

Advisory Clauses

- (a) Prior planning permission should have been obtained before commencing the development on the Premises;
- (b) to note that the comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD) that the proposed 'Shop and Services (Real Estate Agency)' use of the subject premises does not comply with the lease conditions. The registered owner will need to apply to LandsD for a temporary waiver for the above proposal. The proposal will only be considered upon his receipt of formal application from the registered owner. There is no guarantee that the application, if received by LandsD, will be approved and he reserves his comment on such. The application will be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event that the application is approved, it would be subject to such terms and conditions as the Government shall deem fit to do so, including, among others, charging of waiver fee and administrative fee.
- (c) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that adequate drainage measures should be provided to prevent surface water running from the application site to the nearby public roads and drains.
- (d) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that adequate fire protection/ separation between uses should be installed. Barrier Free Access provisions in accordance with Building (Planning) Regulation 72 should be complied. Before any new building works are to be carried out on the application site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorised Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO. Detailed comments under the BO will be provided at building plan submission stage.
- (e) to note that the comments of the Director of Fire Services (D of FS) that regarding matters related to fire resisting construction of the Premises, the applicant is reminded to comply with the 'Code of Practice for Fire Safety in Buildings' which is administered by the Building Authority. The applicant's attention should be drawn to the 'Guidance Note on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses in Industrial Premises'.
- (f) to note the comments of the Director of Electrical and Mechanical Services Department (DEMS) that parties concerned with planning, designing, organising and supervising any activity near the underground cable or overhead line under the Premises should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Premises. The parties should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the 'Code of Practice on Working near Electricity Supply Lines' established under the

Regulation when carrying out works in the vicinity of the electricity supply lines.