

Guidance Note

The Incentive Scheme to Encourage Provision of Residential Care Home for the Elderly Premises in New Private Developments

Objective

To leveraging market forces to develop quality residential care home for the elderly (RCHE) premises in order to meet the community's diverse demand for residential care service places for the elderly, the Government launched "the Incentive Scheme to Encourage Provision of RCHE Premises in New Private Developments" ("the Scheme") in 2003, allowing concession to exempt eligible RCHE premises from payment of land premium for land transactions relating to lease modifications, land exchanges or private treaty grants, on the condition that the developer should comply with certain lease conditions and obtain the support from the Social Welfare Department (SWD).

2. The Chief Executive mentioned in the "2022 Policy Address" that the Government would provide more incentives to encourage developers to build and operate RCHEs in private development projects. Having reviewed the Scheme, the Financial Secretary announced the enhancement of the aforementioned Scheme in the "2023-24 Budget". The total Gross Floor Area (GFA) of RCHE premises that can be benefited from the Scheme in each development project will increase and such GFA will be exempted. The enhanced measures will be reviewed after a three-year trial period.

Details of the Scheme

3. Under the enhanced Scheme, in addition to continue to exempt eligible RCHE premises from payment of land premium, the number of RCHE premises eligible for premium payment exemption in each site will increase from one RCHE premises to no limit on the number of RCHE premises as well as the maximum total GFA of not exceeding 5 400 m² to 12 000 m² or 10% of the total GFA permissible under lease,

whichever is greater. Also, when calculating the total GFA of the entire project, the total GFA of the eligible RCHE premises in the private development project will be exempted and will not be counted in the original total permissible GFA of the entire project, allowing the developers to use the original permissible GFA for other purposes¹.

4. The developer is required to bear the construction cost of the RCHE premises which will be owned by the developer upon completion. As long as the premises is to be used as a RCHE, the developer may lease or sell the premises as one whole unit, or operate the RCHE in the premises by themselves or by entrusting an organisation, whereby the service fees will be set by the developer or operator.

5. The RCHE premises have to be incorporated in new buildings, i.e. RCHE premises resulting from the alterations of or additions to existing buildings will not be eligible. The proposed RCHE premises should also comply with the restrictions of relevant Outline Zoning Plans prepared under the Town Planning Ordinance (Cap. 131).

6. To ensure delivery of the RCHE premises and that the premises built are not used for other purposes without authorization:

- (a) the requirement to provide the RCHE premises will be stipulated as a condition in the lease;
- (b) the lease conditions will prohibit the assignment or sub-letting of the RCHE premises except as one whole unit; and
- (c) the unauthorized change in use of the premises² or leaving the premises vacant for a period of more than 12 months will give rise to a breach of the lease conditions and a cause for lease enforcement action.

In addition, RCHEs are regulated by SWD's licensing regime. The

¹ The relevant authorities will consider giving support based on the merits of the individual development if the total GFA of the project exceeds the limit imposed by relevant statutory control (such as the Town Planning Ordinance or the Buildings Ordinance) after including the eligible RCHE premises.

² If the premises have not been left vacant and if no licence has been issued under section 8 or renewed under section 9 of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459), then any use of such premises shall be deemed to be a change of use to a use other than that of RCHE.

Annex 1

basic requirements for the RCHE premises is at Annex 1.

7. To ensure the RCHE premises under the Scheme fulfills the policy objective of setting up quality RCHE premises in better locations, premium exemption and GFA exemption will only be granted with the support of SWD. When considering to support or not the developer's proposal to provide a RCHE premises in a particular site, SWD will take into account relevant factors, including the demand for residential care service for the elderly in the district, the accessibility of the site, whether the proposal contains elements that bars the premises from obtaining a RCHE licence, etc. Based on the community's demand for different types of RCHE, SWD will support development proposals that provides Nursing Homes or Care and Attention Homes.

Application

8. To enjoy premium exemption and GFA exemption under the Scheme, developers should apply to the Lands Department (LandsD) when submitting the relevant land transaction application. LandsD will consult SWD and other relevant Government departments in accordance with existing mechanism. If the relevant development project requires planning permission from the Town Planning Board, developers should state to the Planning Department (PlanD) the intention to join the Scheme when submitting the relevant planning application. PlanD will consult SWD and other relevant Government departments in accordance with existing mechanism. Developers are not required to submit a separate application to SWD.

Best Practices in Design and Operation of RCHE

9. SWD has prepared a set of "Best Practices in Design and Operation of Residential Care Homes for the Elderly" and "Best Practices Guideline: Basic Provision Schedule for Basic Building Works, Building Services Installation and Kitchen and Laundry Equipment List for RCHEs" for the reference of developers. These documents can be obtained at SWD website

(https://www.swd.gov.hk/en/pubsvc/elderly/elderly_info/elderlydoc/schemetoen/).

Other References

10. SWD currently maintains a list of all licensed RCHEs at its website

(https://www.swd.gov.hk/en/pubsvc/elderly/cat_residentcare/introducti/index.html).

11. Developers interested in the Scheme should also refer to Lands Department's (LandsD) Practice Note Issue No. 5/2023.

12. The calculation method of GFA for RCHE premises is at Annex 2.

Annex 2

Enquiry

13. For enquiries on the Scheme, please contact the Elderly Branch of SWD at 2961 7510.

Social Welfare Department
October 2023

Annex 1

	<i>Item</i>	<i>Description</i>	<i>Reference</i>
a)	Location	No RCHE shall be situated in any part of a building with incompatible use.	<ul style="list-style-type: none"> • Residential Care Homes (Elderly Persons) Regulation Part VI Section 19 • Code of Practice for Residential Care Homes (Elderly Persons) paragraph 5.2
b)	Height Restriction	Unless otherwise permitted by the Director of Social Welfare, no part of the RCHE shall be situated at a height more than 24m above the street level.	<ul style="list-style-type: none"> • Residential Care Homes (Elderly Persons) Regulation Part VI Section 20 • Code of Practice for Residential Care Homes (Elderly Persons) paragraph 5.3
c)	Ceiling Height	Unless otherwise permitted by the Director of Social Welfare, the ceiling (the ceiling structure or suspended false ceiling) of every room shall be situated at a height not less than 2.5 m measuring vertically from the floor or 2.3 m measuring vertically from the floor to underside of beam.	<ul style="list-style-type: none"> • Residential Care Homes (Elderly Persons) Regulation Part VI Section 21(c) • Code of Practice for Residential Care Homes (Elderly Persons) paragraph 4.4.3
d)	Access	Barrier free access for the disabled is to be provided. The RCHE shall be accessible by emergency services.	<ul style="list-style-type: none"> • Residential Care Homes (Elderly Persons) Regulation Part VI Section 21 and 23 • Code of Practice for Residential Care Homes (Elderly Persons) paragraphs 4.4.1, 4.4.6 and 4.6
e)	Basic Facilities	The basic facilities in a RCHE shall include dormitories, dining/sitting	• Residential Care Homes (Elderly Persons) Regulation

	and Floor Space	area, toilet/bathroom/shower, kitchen, laundry, office area and isolation facility/room. The minimum area of floor space for each resident is 6.5m ² .	Schedule 2 • Code of Practice for Residential Care Homes (Elderly Persons) paragraphs 4.5, 6.1 & 6.2
f)	Toilet Facilities	Adequate provision of toilet facilities.	• Residential Care Homes (Elderly Persons) Regulation Part VI Section 25 • Code of Practice for Residential Care Homes (Elderly Persons) paragraph 7.5
g)	Heating, Lighting and Ventilation	Adequate heating, lighting and ventilation provisions.	• Residential Care Homes (Elderly Persons) Regulation Part VI Section 24 • Code of Practice for Residential Care Homes (Elderly Persons) paragraphs 4.9, 7.3, 7.5 & 7.6
h)	Water Supply and Ablutions	Adequate and wholesome supply for washing, laundering and bathing facilities.	• Residential Care Homes (Elderly Persons) Regulation Part VI Section 26 • Code of Practice for Residential Care Homes (Elderly Persons) paragraph 4.10 & Chapter 7
i)	Fire Service Installations	Comply with legislative requirements against fire and other risks.	• Residential Care Homes (Elderly Persons) Regulation Part VII Sections 29 & 30 • Code of Practice for Residential Care Homes (Elderly Persons) paragraphs 5.4 & 5.5

Note

The design and construction of the RCHE shall comply with all relevant statutory requirements including but not limited to the following:

- Buildings Ordinance (Cap. 123) and Regulations
- Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) and Regulation
- Code of Practice for Residential Care Homes (Elderly Persons) January 2020 (Revised Edition)
- Code of Practice for Residential Care Homes (Nursing Homes) for the Elderly (January 2020)

General Guideline on Calculation of GFA for RCHE premises

GFA of eligible RCHE premises includes the following areas as illustrated in Figure 1:

- (a) Areas of RCHE(s) (including the enclosing wall(s) of and structure(s) within the premises) (i.e. the areas of RCHE 1 and RCHE 2 – coloured yellow in Figure 1); and
- (b) Staircases, lift shafts, lobbies and corridors solely serving the RCHE(s) (i.e. the areas of Staircase 1, Staircase 2, Lift 1 and Corridor 1 – coloured orange in Figure 1) including horizontal areas of such staircases and lift shafts passing through the RCHE floor and serving RCHE only at that floor.

Remarks:

- (1) RCHE's GFA does not include horizontal areas of staircases, lift shafts, lobbies and corridors shared by other uses on the same floor (i.e. the areas of Staircase 3, Staircase 4, Lift 2, Lift 3 and Corridor 2 shown in Figure 1).
- (2) During the RCHE licensing process under the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459), the enclosing wall(s) and structure(s) within RCHE(s) are excluded from the calculation of area of floor space per resident.
- (3) Plant rooms, car parking spaces, loading and unloading areas of the development may be disregarded from GFA calculation according to the prevailing GFA concession mechanism except for (4) below.
- (4) Non-mandatory and non-essential plant rooms and horizontal areas of vertical ducts solely serving the RCHE are not subject to 10% overall cap of GFA concession under Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers APP-151 issued by the Buildings Department ("BD").
- (5) PlanD and LandsD will rely on BD's verified computation of GFA for the RCHE(s) as shown on the general building plans when exercising their authority to check compliance with the requirements/conditions imposed under their respective regimes.
- (6) This Guideline provides general guidance on the computation of GFA for the purposes of LandsD Practice Note No. 5/2023. Whether any areas will be included or omitted from the calculation of GFA for RCHE premises will be considered on a case-by-case basis.

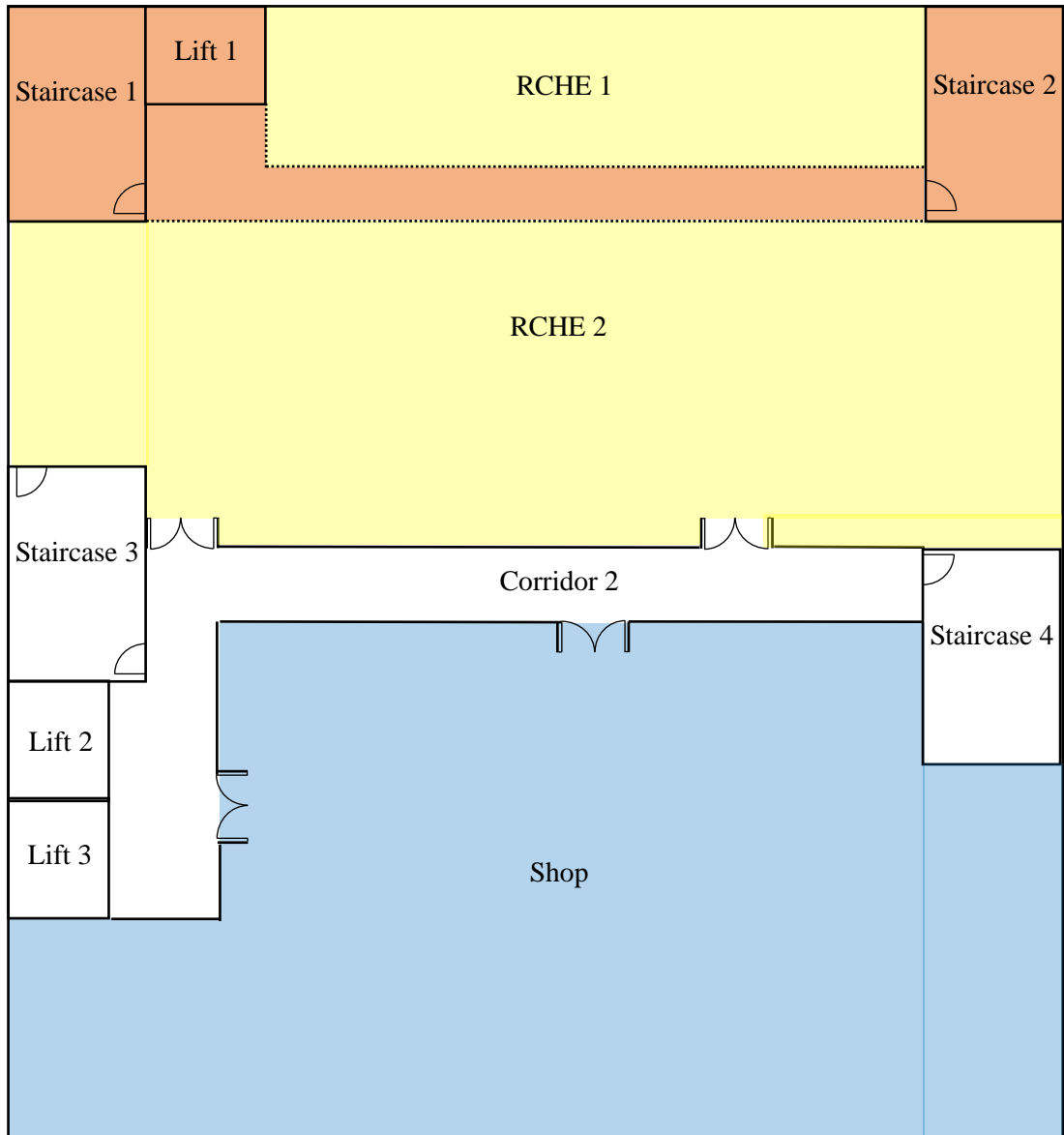


Figure 1

(06/2023)