THE CITY OF WINNIPEG

BY-LAW NO. 127/2008

A By-law of THE CITY OF WINNIPEG to amend the Doing Business in Winnipeg By-law No. 91/2008.

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

Doing Business in Winnipeg By-law amended

1 The Doing Business in Winnipeg By-law No. 91/2008 is amended by this By-law.

Licence fee may be waived in some situations

2(1) Subsection 13(4) is amended by adding at the beginning of the subsection "Subject to subsection (4.1),".

2(2) The following is added immediately after subsection 13(4):

13(4.1)Notwithstanding subsection (4), the designated employee may waive or reduce the licence fee imposed by Part 3, Division Three retroactively to June 1, 2008 for:

(a) an event that will not be or has not been conducted for the preponderant purpose of earning a profit; or

(b) a business that has not been or is not being operated for the preponderant purpose of earning a profit.

Definition of "social or banquet hall" amended

3 The definition of "social or banquet hall" *in section 44 is repealed and the following is substituted:*

"social or banquet hall" means all or part of a building that is:

(a) rented to the public for receptions, private banquets, socials or other functions to which the general public is not admitted and at which liquor is served; or

(b) made available to the public for receptions, private banquets, socials or other functions to which the general public is not admitted and at which liquor is served on condition that food or alcohol provided by the owner or occupant be purchased for consumption at the function.

Definition of "massage parlour" amended

4 The definition of "massage parlour" in section 49 is repealed and the following is substituted:

"**massage parlour**" means any premises, or part of any premises, where more than one person carries on the business of a massagist;

Section 51 repealed

5 Section 51 is repealed.

Division Seven - Section 61 amended

6 Clause 61(2)(b) is repealed.

Division Nine definitions amended

7(1) Section 65 is amended by this section.

*7(2) The definition of "**antique dealer**" is repealed and the following is substituted:*

"antique dealer" means a person who, for the preponderant purpose of earning a profit, carries on the business of dealing in antiques but does not include a person who acquires antiques exclusively by way of commercial transaction;

*7(3) The definition of **"auctioneer"** is repealed and the following is substituted:*

"auctioneer" means any person who, for the preponderant purpose of earning a profit, carries on the business of selling or offering for sale any real or personal property or goods by public or private auction but does not include a person who carries on the business of selling or offering for sale any real or personal property by public or private action exclusively by way of commercial transaction;

*7(4) The definition of **"bicycle dealer"** is repealed and the following is substituted:*

"bicycle dealer" means a person who, for the preponderant purpose of earning a profit, carries on the business of dealing in used bicycles but does not include a person who acquires used bicycles exclusively by way of commercial transaction;

*7(5) The definition of **"precious metals"** is amended*

(a) in clause (d), by adding "that is either not in current circulation as currency or has a value greater than its face value as currency" *after "paper money"; and*

(b) in clause (e), by adding "used" *at the beginning of the clause.*

7(6) The definition of ***"precious metals dealer"*** *is repealed and the following is substituted:*

"precious metals dealer" means a person who, for the preponderant purpose of earning a profit, carries on the business of dealing in precious metals but does not include a person who acquires precious metals exclusively by way of commercial transaction;

7(7) The definition of ***"transaction"*** *is amended by adding* "but does not include an incident in which goods are acquired from a registered charitable organization" *at the end of the definition.*

7(8) The definition of ***"used goods"*** *is amended*

(a) in clause (a), by adding

(i) "other than precious metals" *after* "collectibles";

(ii) "used" *before* "jewelry"*; and*

(iii) "musical instruments," *before* "furniture"*;*

(b) by striking out clause (b);

(c) in clause (d), by adding "that are not antiques" *at the end of the clause;*

(d) by striking out clause (f);

(e) by striking out clause (g) and substituting the following:

(g) metals that are not precious metals;

7(9) The definition of ***"used goods dealer"*** *is amended*

(a) by striking out clause (f) and substituting the following:

(f) as a person who deals exclusively in one or more of the following:

(i) footwear, clothing, used jewelry that doesn't consist of precious stones or precious metals, and accessories such as hats and handbags;

(ii) housewares, including dishes, pots, pans, cooking utensils and cutlery;

(iii) furniture;

(iv) children's toys, car seats and strollers;

(b) by adding "as" *at the beginning of clause (g);*

(c) by striking out "as person" *and substituting* "as a person" *in clause (i):*

(d) by adding the following after clause (j):

(k) as a person who acquires used goods or precious metals exclusively by commercial transaction.

7(10) The following definitions are added in alphabetical order:

"coins" means coins that either

(a) do not have value as currency; or

(b) have a market value greater than their face value as currency;

"collectibles" includes postage stamps, sports trading cards, spoons, dolls and other items that are commonly collected;

"commercial transaction" means a transaction in which payment for goods is made by a cheque

(a) drawn on an account in the name of the purchaser of the goods at a financial institution;

(b) dated at least seven days after the date of the transaction; and

(c) mailed to an address provided by the vendor of the goods;

"investment grade precious metals" means

(a) gold or platinum that is refined to a purity level of at least 99.5%; or

(b) silver that is refined to a purity level of at least 99.9%;

and that, when in the form of a bar, ingot or wafer, is recognized and accepted for trading on Canadian financial markets and bears markings indicating its purity level and, when in the form of a coin, has been issued by a governmental authority and may be used as currency.

"postage stamp" means a postage stamp that either

(a) cannot be used as postage for items mailed in Canada; or

(b) has a market value that is greater than its face value;

"temporary trade show" means two or more antique dealers, bicycle dealers, precious metals dealers or used goods dealers who are located for a period of seven days or less on a single property in close proximity to one another in order to engage in transactions or offer to engage in transactions with members of the public;

"temporary trade show promoter" means a person who organizes or arranges a temporary trade show;

"used jewelry" means jewelry that cannot be demonstrated to have been acquired from a manufacturer, wholesaler or some other person who has been issued a GST/HST number by the Canada Revenue Agency;

Section 66 amended

8 Section 66 is amended by striking out "A person" *at the beginning of each subsection and substituting* "Subject to section 66.1, a person"*.*

Temporary trade show licence added

9 The following is added after section 66:

Temporary Trade Show Licence

66.1(1) Subject to section 81.1, a person must not operate as a temporary trade show promoter without a Temporary Trade Show Licence issued under this section for each temporary trade show being promoted by the person.

66.1(2) Notwithstanding section 66, a person may carry on the business of an antique dealer, a bicycle dealer, a precious metals dealer or a used goods dealer without a licence issued under this Division for a period of seven days or less if the person is during that period listed as a participant in a temporary trade show in a subsisting Temporary Trade Show Licence.

Section 70 amended

10 Subsection 70(1) is amended by striking out everything after "record of transaction" *and substituting* "for that transaction is made at the time of the acquisition and disposal of used goods and is maintained in accordance with this Division."

Section 71 amended

11 Section 71 is amended by replacing the period at the end of clause (f) with a semi-colon and adding the following after clause (f):

(g) the identification number assigned to the person from whom the used goods were acquired, as required by subsection 73(5).

Section 73 amended

12(1) Section 73 is amended by this section.

12(2) Subsection (1) is amended by

(a) striking out "Subject to subsection (2)" *and substituting* "Subject to this section"*.; and*

(b) striking out clause (b) and substituting the following:

(b) the name, date of birth and current address of the individual from whom the used goods are being acquired and a description of the piece of identification provided by the individual that appears to be accurate from which that information has been obtained;

12(3) Subsection (2) is amended by striking out "engages in a transaction with" *and substituting* "acquires used goods from".

12(4) The following is added after subsection (2):

73(3) Where a business that is required to be licenced under this Division engages in an acquisition by way of internet communication, the record of identification required by section 70 must contain the name, mailing address and electronic mailing (e-mail) address of the person from whom the goods are being acquired.

73(4) Where a business that is required to be licenced under this Division engages in an acquisition by way of telephone, mail or delivery service, the record of identification required by section 70 must contain the name, mailing address and telephone number of the person from whom the goods are being acquired.

73(5) A person who carries on a business that is required to hold a licence under this Division must ensure that, subject to subsection 78(5), each person from whom used goods are acquired is assigned an identification number and that the identification number is recorded on each record of acquisition that records used goods acquired from that person.

Subsection 76(2) amended

13 Subsection 76(2) is amended by adding "or, if maintained in electronic form, must be accessible from the premises of the business," *immediately after* "premises of the business".

Subsection 77(1) amended

14 Subsection 77(1) is amended by:

(a) striking out "deliver to the Police Chief" *and substituting* "ensure that delivery is made to the Police Chief"*; and*

(b) adding "concerning acquisitions" *immediately after* "a copy of the records of acquisition"*.*

Section 78 amended

15(1) Section 78 is amended by this section.

15(2) Subsection (2) is amended by:

(a) striking out "or*" immediately before* "use a record of identification" *and substituting* "and must not"*;*

(b) striking out clause (b) and substituting the following:

(b) the person has been charged under any of the following sections of the Criminal Code, R.S.C. 1985, c. C-46

(i) 348 (break and enter),

(ii) 349 (being unlawfully in a dwelling house),

(iii) 351 (possess house breaking instrument, disguise with intent),

or under any of the following sections of the Criminal Code, R.S.C. 1985, C-46 with respect to property other than real property, cash or a motor vehicle:

(iv) 322 (theft),

(v) 343 or 344 (robbery),

(vi) 354 (possess property obtained by crime),

(vii) 354 (theft from mail).

15(3) The following is added after subsection (2):

78(2.1)Where a member of the Winnipeg Police Service accesses a record of identification pursuant to subsection (2), he or she may access or use all records of identification in respect of that person that have been made by any person who holds a licence issued under this Division in Winnipeg within the previous six months.

15(4) The following is added after subsection (4):

78(5) Where a person who holds a licence issued under this Division provides a record of identification to or makes a record of identification available for inspection by a member of the Winnipeg Police Service, the licence holder must immediately assign a new identification number to the person identified in the record of identification and must subsequently provide that identification number as part of any future record of acquisition in respect of used goods acquired from that person.

Section 79 amended

16(1) Section 79 is amended by renumbering it as subsection 79(1) and adding "Subject to subsection (2)" *at the beginning of the subsection.*

16(2) The following is added after subsection 79(1):

79(2) Subsection (1) does not apply to coins, investment grade precious metals or postage stamps after 15 days have elapsed since a record of acquisition was delivered to the Police Chief in respect of those precious metals.

Section 80 amended

17(1) Section 80 is amended by this section.

17(2) Subsection (1) is amended by striking out "since the goods were acquired" *and substituting* "since the records of acquisition concerning those goods were delivered to the Police Chief in accordance with section 77".

17(3) Subsection (2) is amended by adding the following after clause (b):

(b.1) investment grade precious metals;

Section 81.1 added

18 The following is added after section 81:

Temporary trade shows

81.1(1) Sections 68, 69, 70, 71, 72, 73, 74, 76(2), 76(5), 77, 78(1), 79 and 80 do not apply to the holder of a Temporary Trade Show Licence nor to a person to whom subsection 66.1(2) applies.

81.1(2) The designated employee must not issue a Temporary Trade Show Licence unless the designated employee receives verification from a City employee authorized to administer and enforce the Winnipeg Zoning By-law or the Downtown Winnipeg Zoning By-law that operation of the temporary trade show on the premises for which the licence is sought is permitted under one of those two zoning by-laws.

81.1(3) It is a condition of a Temporary Trade Show Licence that the holder of the licence must:

(a) provide the names of every person occupying a booth, stall, table or other exclusive space at or otherwise participating in the temporary trade show to Police Chief at least five days prior to the person beginning to occupy the space or otherwise participate in the temporary trade show; and

(b) provide access to enforcement officers, including on-duty members of the Winnipeg Police Service, without fee or charge at any time the temporary trade show is open to the public.

Schedule A amended

19(1) Part 1 of Schedule A is amended by adding the following to the Chart in numerical order:

21	Temporary Trade Show	$260

19(2) Part 2 of Schedule A is amended by:

(a) striking out "May 31, 2009" *and substituting* "December 31, 2008"*; and*

(b) striking out Outdoor Mobile Food Vendors" *and substituting* "Outdoor Mobile Food Unit"*.*

DONE AND PASSED this 16th day of July, 2008.