THE CITY OF WINNIPEG

BY-LAW NO. 42/2013

A By-law of THE CITY OF WINNIPEG to amend the Doing Business in Winnipeg By-law and the Food Service Establishment By-law

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

PART 1
AMENDMENTS TO THE DOING BUSINESS IN WINNIPEG BY-LAW

Doing Business in Winnipeg By-law amended

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

Section 2 amended

2 Section 2 is amended by adding the following in alphabetical order:

"applicable fee" *means a fee established by the Council of the City of Winnipeg, or pursuant to a delegation by Council, for the licence, service or other thing to which reference is made;*

"licence"*, unless the context requires otherwise, means a licence issued under this By-law;*

Clause 5(1)(a) replaced

3 Clause 5(1)(a) is replaced with the following:

(a) who pay the applicable fee or fees for that licence;

Section 6 replaced

4 Section 6 is replaced with the following:

Duration of licence

6 Where the expiration date of a licence is set out on the licence itself, the licence expires on the expiration date set out. Where the expiration date of a licence is not set out on the licence itself, the licence expires on the anniversary of the date it was issued.

Section 7 amended

5(1) Subsection 7(1) is amended by replacing "*the fee set out in Schedule A to renew the licence*" with "*the applicable fee*".

5(2) Subsection 7(2) is replaced with the following:

7(2) A licence holder whose licence has expired may nonetheless renew the licence within one year after its expiration if the licence holder pays the applicable administrative fee in addition to the applicable fee to renew the licence.

5(3) Subsection 7(3) is replaced with the following:

7(3) Where a fee is increased pursuant to the Fees and Charges By-law or otherwise on the date after a licence is due to expire, the fee to renew the licence is the increased fee.

Section 13 amended

6(1) Subsections 13(1) and (2) are amended by replacing "*fee specified in Schedule "A"*" with "*applicable fee or fees*".

6(2) Subsection 13(3) is replaced with the following:

13(3) An applicant must pay the entire annual licence fee applicable to the business even if the business will not be in operation throughout the entire year.

6(3) Subsection 13(5) is amended by replacing everything after "*void*" with "*and any applicable fee is payable by the person writing the cheque".*

6(4) Subsections 13(6) and (7) are repealed.

Section 13.1 added

7 The following is added after section 13:

Collection of licence fees

13.1 Without affecting any other remedy which the City may have to collect fees, if any business for which a licence is required by this By-law is carried on without a licence having been issued or with the licence for that business having expired, the designated employee is authorized to enforce payment of the applicable licence fee or fees by seizure and sale of the goods found on the premises in which the business is carried on or of the goods of the person who is carrying on the business wherever those goods may be found.

Several provisions amended

8 The following provisions are amended by striking out "*including a licence renewed within 30 days of its expiry under subsection 7(2)*":

(a) subsection 21(1);
(b) subsection 28(1);
(c) subsection 36(1);
(d) subsection 43(1);
(e) subsection 54(1);
(f) subsection 61(1);
(g) subsection 64(1);
(h) subsection 69(1);

(i) subsection 84(1);

Section 27 amended

9 The following is added after subsection 27(1):

27(1.1) A licence must not be issued under this section unless the individual whose personal identification is required in subsection (1) applies in person in order to give the designated employee an opportunity to determine the accuracy of the identification and the photographs provided as part of the application.

Section 28 amended

10 Subsection 28(4) is amended by replacing "*An*" at the beginning of the subsection *with "If the businesses are located within the City of Winnipeg, an*".

Section 32 amended

11 Section 32 is amended by renumbering it as subsection 32(1) and adding the following after it:

32(2) In this Division

"farmer's market" means a collection of at least two independent vendors located on a single property in which

(a) the vendors occupy temporary booths or spaces; and

(b) at least 50% of the booths or spaces are offering for sale

(i) agricultural produce grown in Manitoba; or

(ii) products derived from agricultural produce grown in Manitoba, such as preserves, pickles and frozen meat;

and are physically staffed by the individual who produced the produce or products, a member of the immediate family of the individual, or an employee of the individual.

Section 33 amended

12(1) Subsection 33(1) is replaced with the following:

33(1) Subject to the exceptions set out in subsections (2) and (3), a person who carries on the business of operating a food service establishment that is not a temporary food service establishment, an outdoor mobile food unit or a catering establishment must obtain a

(a) Food Service Establishment (Low Risk) Licence;

(b) Food Service Establishment (Medium Risk) Licence; or

(c) Food Service Establishment (High Risk) Licence;

as determined in accordance with section 34.

12(2) Subsections 33(3) to (6) are replaced with the following:

33(3) A person who carries on the business of operating a catering establishment must obtain a Food Service Establishment (Caterer) Licence. If the catering establishment operates in the same premises as a food service establishment referred to in subsection (1) and the same person carries on both businesses, the person must only obtain a Food Service Establishment (Caterer) Licence and is not required to obtain a licence referred to in subsection (1).

33(4) A person who operates or carries on the business of a temporary food service establishment must obtain:

(a) a Temporary Food Service Establishment (Limited) Licence, if the establishment will operate for a period of two hours or less;

(b) a Temporary Food Service Establishment (14 Day) Licence if the establishment will operate at a single location for a period of 14 days or less; or

(c) a Temporary Food Service Establishment (Seasonal) Licence if the establishment is operating exclusively at a single fixed location in a particular farmer's market.

33(5) A person who holds a Temporary Food Service Establishment (14 Day) Licence for particular location may, prior to the expiration of the licence, obtain an extension of the licence for a period of up to seven days if

(a) the applicant pays the applicable fee for this extension; and

(b) the Designated Employee is satisfied that the establishment meets the standards that it would have to meet for an initial licence to be issued.

33(6) A person who operates or carries on the business of an outdoor mobile food unit must obtain an Outdoor Mobile Food Unit Licence unless the outdoor mobile food unit sells only

(a) pre-packaged food products that are not potentially hazardous food;

(b) frozen milk products; or

(c) fresh, uncut fruit or vegetables.

Section 43 amended

13 Clause 43(2)(a) is replaced with the following:

(a) verification from an individual authorized to administer or enforce the Neighbourhood Liveability By-law that the premises at which the hostel is proposed to be operated meets the requirements of that By-law;

Division 5 repealed

14 Division 5 is repealed.

Section 53 amended

15 The following is added after subsection 53(1):

53(1.1) A licence must not be issued under this section unless the individual whose personal identification is required in subsection (1) applies in person in order to give the designated employee an opportunity to determine the accuracy of the identification and the photographs provided as part of the application.

Section 61 amended

16 Section 61 is amended by adding the following immediately after clause 61(2)(c):

(d) in the case of a Converted Residential Dwellings with Shared Facilities Licence, verification from an individual authorized to administer or enforce the Neighbourhood Liveability By-law that the premises at which the converted residential dwelling with shared facilities is proposed to be operated meets the requirements of that By-law;

Section 65 amended

17 Section 65 is amended by

(a) replacing the definition "*auctioneer*" with the following:

"auctioneer" *means any person who, for the preponderant purpose of earning a profit, carries on the business of conducting private or public auctions in which real or personal property or goods belonging to persons other than the auctioneer are sold or offered for sale;*

(b) adding the following in alphabetical order;

"flea market" *means two or more antique dealers, bicycle dealers or used goods dealers who are located on a single property in close proximity to one another in order to engage in transactions, or to offer to engage in transactions, with members of the public and whose hours of operation are limited to weekends and statutory holidays;*

(c) in the definition "*used goods*",

(i) replacing clause (a) with the following:

(a) goods that are not new, including bicycles, antiques, collectibles other than precious metals, art, used jewelry that does not consist of precious stones or precious metals, precious metals, musical instruments, furniture, appliances, electronics, computers and computer software, video game systems, household goods, building materials, tools, and sports equipment;

(ii) replacing clause (e) with "*used DVDs, videos, video games, compact discs*

and long-playing records"; and

(iii) adding "*or used automobile parts*" at the end of clause (l).

(d) in the definition "*used goods dealer*",

(i) adding "*, appliances or used office equipment*" at the end of subclause (f)(iii);

(ii) replacing subclause (f)(iv) with the following:

(iv) children's toys, car seats, strollers, children's furniture or children's clothing;

(iii) adding the following after subclause (f)(iv);

(v) specialized medical equipment or mobility aids;

(vi) sports equipment;

(iv) replacing clause (j) with the following:

(j) as a retailer who acquires used goods as an incident of a business as partial payment of the cost of another item of a similar nature that is purchased at the time the used goods are acquired on the basis of no greater than a one-for-one trade, but not as a retailer who issues credit notes for used goods so acquired;

(v) replacing the period at the end of the definition with a colon and adding the following after clause (k):

(l) a person who deals only in used goods that have been donated to the person without any payment or exchange of goods having been made for them.

Section 66 amended

18(1) Subsections 66(1) and (2) are repealed.

18(2) In subsections 66(3) and 66(5), "*and 66.2*" is added after "*66.1*".

Section 66.1 amended

19 Section 66.1 is amended

(a) in subsection (1), by adding "*holding*" immediately before "*a Temporary Trade Show Licence*"; and

(b) by replacing subsection (2) with the following:

66.1(2) Notwithstanding section 66, but subject to subsection (3), a person may, as a dealer at a temporary trade show, carry on the business of a bicycle dealer, a precious metals dealer, or a used goods dealer without a licence issued under this Division if the person is listed as a participant in the temporary trade show by the

holder of the Temporary Trade Show Licence for that temporary trade show in compliance with section 81.1.

Section 66.2 added

20 The following is added after section 66.1:

Flea markets

66.2(1) Subject to subsection 81.2, a person must not carry on the business of a flea market organizer without holding a Flea Market Licence issued under this By-law for each location in which a flea market is organized or arranged by the person.

66.2(2) Notwithstanding section 66, a person may, as a dealer at a flea market, carry on the business of a bicycle dealer or a used goods dealer without a licence issued under this Division if the person is listed as a participant in the flea market by the holder of a Flea Market Licence for that flea market in compliance with section 81.2.

Section 68 amended

21 Subsection 68(1) is amended by replacing "*A licence under this Division*" with "*Subject to sections 81.1 and 81.2, a licence under this Division*".

Section 69 amended

22 Subsection 69(3) is amended by replacing "*an Antique Dealer Licence, an Auctioneer Licence*" and substituting "a *Flea Market Licence*".

Section 73 amended

23 Clause 73(1)(b) is replaced with the following:

(b) either

(i) 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 the name, date of birth and current address of the individual have been obtained; or

(ii) a photocopy or electronically-scanned copy of the piece of identification that appears to be accurate.

Section 75 repealed

24 Section 75 is repealed.

Section 81.1 amended

25(1) Subsection 81.1(1) is replaced with the following:

81.1(1) Sections 69 to 81, inclusive, do not apply to the holder of a Temporary Trade Show Licence nor to a person to whom subsection 66.1(2) applies.

25(2) Clause 81.1(3)(a) is amended by adding "*and, if the person is an individual, the birthdate*"

immediately after "*provide the names*".

Section 81.2 added
26 The following is added after section 81.1:

Flea markets
81.2(1) Sections 70 to 81, inclusive, do not apply to the holder of a Flea Market Licence nor to a person to whom subsection 66.2(2) applies.

81.2(2) It is a condition of a Flea Market Licence that the holder of the licence must:

(a) provide the name and, if the person is an individual, the birthdate of every person occupying a booth, stall, table or other exclusive space at, or otherwise participating in, the flea market to the Police Chief at least five days prior to the person beginning to participate in the flea market; and

(b) provide access to enforcement officers, including on-duty members of the Winnipeg Police Service, to inspect all items for sale or being held on the premises, without fee or charge at any time that the flea market is open to the public.

Schedule A repealed
27 Schedule A is repealed.

PART 2
AMENDMENTS TO THE FOOD SERVICE ESTABLISHMENT BY-LAW

Food Service Establishment By-law amended
28 The Food Service Establishment By-law No. 5160/89 is amended by this Part.

Section 2 amended
29 Section 2 is amended

(a) by replacing the definition "C*atering Establishment*" with the following:

*(a) **"Catering Establishment"** means a food service establishment in which at least some food prepared at a principal location is served for consumption at a temporary location by the owners or employees of the establishment*

but does not include a food service establishment that prepares food to be taken away by customers or delivered for consumption elsewhere without being served there by owners or employees of the establishment. The term catering establishment" includes both the principal location where food is prepared and temporary locations where food is served.

(b) by striking out clause (i) in the definition "*Food Service Establishment*"; and

(c) by replacing the definition "*Temporary Food Service Establishment*" with the following:

"Temporary Food Service Establishment" *means a food service establishment that operates at a single location for six months or less.*

Section 35 replaced

30 Section 35 is replaced with the following:

CATERING ESTABLISHMENTS

35.1 A catering establishment must comply with applicable requirements set out in this By-law in respect of food preparation at its principal location and must to the greatest extent practicable prepare food at its principal location in order to limit food preparation at the temporary location where the food is served.

35.2 A catering establishment must comply with section 14 when transporting food.

35.3 A catering establishment must comply with section 32 with respect to any temporary location in which its food is served.

Section 36 amended

31(1) Subsection 36.1 is replaced with the following:

36.1 A Public Health Inspector may serve a deficiency order on the operator or the person in charge of a food service establishment, requiring the person to correct violations listed in or attached to the said order within a time period specified in the order. The operator or person in charge of a food service establishment must comply with a deficiency order within the time period specified in the order.

31(2) Subsection 36.2 is amended by adding "*issued under this By*-law" immediately after "*A notice, decision or order*".

DONE AND PASSED, this day of , 2013.

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Mayor

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City Clerk

Approved as to content:

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Director of Community Services

Approved as to form:

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For Director of Legal Services/City Solicitor