

Proposed: “Business Licence Bylaw No. 4455, 2005 Amendment Bylaw 5329, 2024”; and “Bylaw Notice Enforcement Bylaw No. 4368, 2004, Amendment Bylaw No. 5330, 2024”



Notice of Intent to Consider a proposed Business Licence amendment bylaw and a proposed Bylaw Notice Enforcement Bylaw amendment on April 22, 2024 *(regarding the sale of bear spray)*

To restrict the sale of bear spray to persons under 19 years of age and require businesses to properly identify and document each sale while also ensuring that the product is stored in a secure area



Public Information Binder

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NOTICE OF INTENT TO CONSIDER:

- proposed Business Licence Bylaw No. 4455, 2005, Amendment Bylaw No. 5329, 2024; and
- proposed Bylaw Notice Enforcement Bylaw No. 4368, 2004, Amendment Bylaw No. 5330, 2024

in order to add restrictions to the sale of bear spray.

Public Notice is hereby given pursuant to section 59(2)(a) of the *Community Charter* that it is the intent of the District of West Vancouver Council to consider proposed Business Licence Bylaw No. 4455, 2005, Amendment Bylaw No. 5329, 2024 and proposed Bylaw Notice Enforcement Bylaw No. 4368, 2004, Amendment Bylaw No. 5330, 2024 at the April 22, 2024 Council meeting, which will be held at 7 p.m. in the Municipal Hall Council Chamber, 750 17th Street, and via Webex communication facilities.

The proposed Business Licence Bylaw No. 4455, 2005, Amendment Bylaw No. 5329, 2024 would add new regulations to restrict the sale of bear spray to a person under 19 years of age and require businesses to properly identify and document each sale while ensuring the product is stored in a secure area.

The proposed Bylaw Notice Enforcement Bylaw No. 4368, 2004, Amendment Bylaw No. 5330, 2024 would implement new sections and fines applicable to the proposed business licence amendments.

The proposed bylaws and report will be available for viewing from April 5 to 22, 2024 at Municipal Hall, 8:30 a.m. to 4:30 p.m., Monday to Friday, excluding statutory holidays; and at westvancouver.ca.

Persons who wish to make representations regarding the proposed bylaws will be given an opportunity to be heard and to present written submissions at the April 22, 2024 Council meeting.

ENQUIRIES? Bylaw & Licensing Services: 604-925-7152

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District of West Vancouver

**Proposed: Business Licence Bylaw No. 4455, 2005,
Amendment Bylaw No. 5329, 2024; and Bylaw Notice Enforcement
Bylaw No. 4368, 2004 Amendment Bylaw No. 5330, 2024**

**Scheduled for Public Consideration at the
April 22, 2024 Council Meeting**

File: 1610-20-5329

REPORTS TO COUNCIL			
REPORT TITLE	REPORT DATED	RECEIVED AT COUNCIL MEETING	#
Proposed Business Licence Bylaw No. 4455, 2005 Amendment Bylaw 5329, 2024 to Regulate the Sale of Bear Spray	April 5, 2024	April 22, 2024	R-1

WRITTEN SUBMISSIONS		
SUBMISSION AUTHOR	SUBMISSION DATED	#
None to date.		

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DISTRICT OF WEST VANCOUVER
750 17TH STREET, WEST VANCOUVER BC V7V 3T3

R-1

COUNCIL REPORT

Date:	April 5, 2024
From:	Matthew O'Connor – Manager, Bylaw & Licensing Services
Subject:	Proposed Business Licence Bylaw No. 4455, 2005 Amendment Bylaw 5329, 2024 to Regulate the Sale of Bear Spray
File:	1610-20-5329

RECOMMENDATION

THAT:

1. proposed “Business Licence Bylaw No. 4455, 2005 Amendment Bylaw 5329, 2024” be read a first, second, and third time; and
2. proposed “Bylaw Notice Enforcement Bylaw No. 4368, 2004, Amendment Bylaw No. 5330, 2024” be read a first, second, and third time.

1.0 Purpose

This report proposes an amendment to the Business Licence Bylaw No. 4455, 2005 and the Bylaw Notice Enforcement Bylaw, through Amendment Bylaw No. 5329, 2024 (**Appendix A**) and Amendment Bylaw No. 5330, 2024 (**Appendix B**), to restrict the sale of bear spray to persons under 19 years of age and require businesses to properly identify and document each sale while also ensuring that the product is stored in a secure area.

2.0 Legislation/Bylaw/Policy

The District of West Vancouver’s (District) Business Licence Bylaw No. 4455, 2008 provides for the granting of business licences, to fix and impose licence fees and to regulate certain businesses and sales in the District of West Vancouver.

The District’s Bylaw Notice Enforcement Bylaw No. 4368, 2004 outlines bylaw contraventions and applicable fine amounts.

3.0 Council Strategic Objective(s)/Official Community Plan

Council Strategic Plan 2024-2025

Council’s Strategic Objective 5.5 is applicable to this report:

- Create and/or update policies and bylaws to preserve community liveability.

4.0 Financial Implications

There are no financial implications associated with this report.

5.0 Background

5.1 History

Bear spray is a type of pepper spray and is considered a pesticide as it contains capsaicin in a percentage of 1-2%. Health Canada's Pest Management Regulatory Agency governs the *Pest Control Products Act* (PCP Act) and Regulations and is responsible for evaluating and registering pesticides before they are imported, stored, manufactured, sold or used in Canada.

The BC Ministry of Environment is responsible for the protection of human health and the environment in British Columbia. The Integrated Pest Management (IPM) Program of the ministry promotes IPM and environmental stewardship and ensures compliance with the *Integrated Pest Management Act and Regulation*. The legislation establishes conditions for the sale and use of pesticides through a pesticide classification system, and regulatory provisions and standards for licences, certification, permits, and confirmations of pesticide use notices under Pest Management Plans. As bear spray is classified as excluded, there are no provincial restrictions on its sale, and it is exempt from terms and conditions imposed on pesticides where a vendor licence is required.

Municipalities do have the ability to set further bylaws on the sale and use of pesticides in their jurisdiction. Most recently, Chilliwack, Port Coquitlam and Vancouver introduced regulations on the sale of bear spray in 2021, 2022 and 2023 respectively to prohibit its sale to minors. Chilliwack further restricts the sale of bear spray to outdoor/sporting goods stores. Both Vancouver and Chilliwack have record and reporting requirements. All three jurisdictions require retailers to display bear spray in a secure space either locked or otherwise inaccessible to the public.

6.0 Analysis

6.1 Discussion

Regulating the sale of bear spray is a proactive measure meant to enhance public safety and potentially reduce the number of criminal offences involving these products. The possession of bear spray becomes a public safety issue when it is used for purposes other than its intended use, with the potential to escalate to a criminal offense under Section 90(1) of the *Criminal Code*. In 2023, West Vancouver Police Department (WVPD) members presented concerns with its increased use as a weapon. This evolved into a review of the accessibility of bear spray in the District and how there are no regulations currently in place to address the sale, storage, and purchase of bear spray.

WVDP statistics involving the illegal use of bear spray in 2022 and 2023 (**Appendix C**) show an increase in the use of bear spray during the commission of a criminal offence. WVDP statistics note a 50% increase in files involving bear spray, from 30 in 2022 to 45 in 2023. Further to this, Appendix C also outlines the increase in files involving bear spray and youth, which saw a 100% increase from 8 files in 2022 to 16 files in 2023. Given the observed increase, and the newly implemented regulations in Vancouver, concerns arose about the accessibility of bear spray, particularly to youths, in the District and how the enhanced restrictions in Vancouver may cause individuals to come to the District to purchase bear spray intended for illegal purposes.

Particular concern surrounded pop-up events known as Tiktok parties, as these large gatherings of youth have shown to lead to an increase in offenses, and bear spray has been involved in certain files. Ambleside Park was a listed location for some of these events in 2023, which led to an increase in WVDP presence in the area.

Staff sought to implement new proposed regulations that enhanced safe sale practices while minimizing the financial and administrative impact on businesses that do sell bear spray. A canvas was conducted over the phone by WVDP members to determine how many businesses sell bear spray in the District. Although only two businesses were identified as selling bear spray, these regulations would help clarify safe sale practices moving forward and afford Bylaw Enforcement Officers an additional means to enforce and seek compliance. These businesses were also consulted, and it was determined that they already have similar practices in place, are supportive of the proposed regulations, and would see minimal impact on their practices.

Through the amendments to the Business Licence Bylaw No. 4455, 2005, staff recommend prohibiting the sale of bear spray to anyone under 19 years of age and requiring businesses to obtain and record authorized identification to verify that the purchaser meets this age threshold. Requiring businesses to obtain authorized identification may act as a deterrent against those wanting to purchase bear spray and use it for illegal purposes, as their identification details and data will be required to purchase the product. Amendments to Section 4 of the Business Licence Bylaw No. 4455, 2005 look to define both 'authorized identification' and 'bear spray.' These proposed definitions correspond with what is present in other Lower Mainland jurisdictions.

Businesses will also be required to maintain relevant records for 12 months from the date of sale and provide them to the Inspector upon request. These records are required to contain the following information:

- Date and time of sale;
- Product name and quantity sold;
- Name and address of purchaser;

- Type of authorized identification provided by the purchaser and the identification number.

Finally, businesses will be required to safely store bear spray products in a locked area or an area otherwise inaccessible to the public.

The recommended amendments to the Bylaw Notice Enforcement Bylaw No. 4368, 2004 will add new sections to Schedule A - Designated Bylaw Contraventions and Penalties to reflect the proposed new Business Licence Bylaw No. 4455, 2005 sections regulating the sale of bear spray. Fine amounts were determined through a review of the amounts in other Lower Mainland jurisdictions. The maximum fine amount of \$500 under the *Local Government Act* was determined to be relevant, applicable and in-line with the fine amounts in Chilliwack and Surrey.

6.2 Sustainability

Data from Chilliwack RCMP indicates a 49 per cent decrease in the number of case files for incidents involving bear spray in 2021 compared to the previous year. This decrease corresponds with the implementation of the additional restrictions on the sale of bear spray. Ideally, these proposed bylaws would contribute to a decrease in incidents involving bear spray and enhance public safety in the District moving forward.

6.3 Public Engagement and Outreach

Public Notice (**Appendix D**) is to be posted on the District website and made available physically at Municipal Hall from April 5, 2024 to April 22, 2024. Additionally, notice has been scheduled to be posted in the North Shore News on both April 10, 2024, and April 17, 2024.

6.4 Other Communication, Consultation, and Research

Staff worked alongside WVPD to gather statistics and canvas businesses in West Vancouver to determine businesses that do sell bear spray. Bear spray bylaw regulations previously adopted in Vancouver and Chilliwack were also consulted when drafting up this proposal.

7.0 Options

7.1 Recommended Option

THAT:

proposed “Business Licence Bylaw No. 4455, 2005 Amendment Bylaw 5329, 2024” be read a first, second, and third time; and

proposed “Bylaw Notice Enforcement Bylaw No. 4368, 2004, Amendment Bylaw No. 5330, 2024” be read a first, second, and third time.

7.2 Considered Options

Council may:

- request further information or additional amendments; and/or
- not approve the recommendation.

8.0 Conclusion

This report proposes an amendment to the Business Licence Bylaw No. 4455, 2005 and the Bylaw Notice Enforcement Bylaw, through Amendment Bylaw No. 5329, 2024 and Amendment Bylaw No. 5330, 2024, to restrict the sale of bear spray to persons under 19 years of age and require businesses to properly identify and document each sale while also ensuring that the product is stored in a secure area. Staff recommend adopting these bylaw amendments to regulate the sale of bear spray, reduce its accessibility to youth and enhance public safety moving forward. Clearer, defined municipal bylaws will explicitly outline what is expected of businesses with minimal impact to them, while also enhancing the tools available to Staff for bylaw enforcement.

Author:



Matthew O'Connor – Manager, Bylaw & Licensing Services

Appendices

Appendix A: Business Licence Bylaw No. 4455, 2005 Amendment Bylaw 5329, 2024

Appendix B: Bylaw Notice Enforcement Bylaw No. 4368, 2004, Amendment Bylaw No. 5330, 2024

Appendix C: WVPD Statistics Involving the Illegal Use of Bear Spray 2022-2023

Appendix D: Public Notice

Appendix A



District of West Vancouver

Business Licence Bylaw No. 4455, 2005, Amendment Bylaw No. 5329, 2024

Effective Date:

District of West Vancouver

Business Licence Bylaw No. 4455, 2005, Amendment Bylaw No. 5329, 2024

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District of West Vancouver

Business Licence Bylaw No. 4455, 2005, Amendment Bylaw No. 5329, 2024

A bylaw to amend the Business Licence Bylaw No. 4455, 2005 to regulate the sale and display of bear spray.

Previous amendments: Amendment bylaws 4596, 4611, 4656, 5060, 5137, 5176, 5238.

WHEREAS the Council of The Corporation of the District of West Vancouver deems it expedient to provide for amendment to the Business Licence Bylaw No. 4455, 2005 to regulate the sale and display of bear spray;

NOW THEREFORE, the Council of The Corporation of the District of West Vancouver enacts as follows:

Part 1 Citation

- 1.1 This bylaw may be cited as Business Licence Bylaw No. 4455, 2005, Amendment Bylaw No. 5329, 2024.

Part 2 Severability

- 2.1 If a portion of this bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of this bylaw is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phrase.

Part 3 Part 4 and Part 7 Amendments

- 3.1 Section 4.1 of the Business Licence Bylaw No. 4455, 2005 is hereby amended by adding the following definitions in correct alphabetical order:

“**Authorized Identification**” means any one or more of the following, provided it is valid and is integrated with a photograph of the bearer:

(a) driver’s licence;

(b) identity card issued by a Canadian province or territory;

- (c) Indigenous status card;
- (d) passport issued by a recognized government;
- (e) any other form of provincial or federal identification.”; and

“**Bear Spray**” means a device containing capsaicin and other related capsaicinoids that is designed and labeled for use as a deterrent from attacks by bears or other animals.”

- 3.2 Section 7 of the Business Licence Bylaw No. 4455, 2005 is hereby amended by adding the following subsection in correct numerical order:

“7.9 Sale of Bear Spray

7.9.1 A person carrying on a business that sells or offers to sell bear spray must not:

- (a) sell bear spray to a person under 19 years of age; and
- (b) sell bear spray to a person who does not provide authorized identification verifying that they are 19 years of age or older.

7.9.2 Every person carrying on a business that sells or offers to sell bear spray must:

- (a) keep the bear spray in a locked area, or in an area otherwise inaccessible to the public;
- (b) make a record of each sale of bear spray, including the date and time of sale, the product name and quantity sold, the name and address of the purchaser, the type of authorized identification provided by the purchaser, and the identification number on the identification provided;
- (c) keep the record referred to in subsection (b) for a period of 12 months from the date of sale; and
- (d) make the record referred to in subsection (b) available to the Inspector upon request, for the purposes of verifying compliance with this bylaw.”

READ A FIRST TIME on

READ A SECOND TIME on

READ A THIRD TIME on

ADOPTED by the Council on

Mayor

Corporate Officer



District of West Vancouver

**Bylaw Notice Enforcement Bylaw No. 4368,
2004, Amendment Bylaw No. 5330, 2024**

Effective Date:

**Bylaw Notice Enforcement Bylaw No. 4368,
2004, Amendment Bylaw No. 5330, 2024**

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District of West Vancouver

Bylaw Notice Enforcement Bylaw No. 4368, 2004, Amendment Bylaw No. 5330, 2024

A bylaw to add sections and fine amounts applicable to new sale of bear spray regulations.

Previous amendments: Amendment bylaws 4416, 4429, 4448, 4481, 4482, 4501, 4521, 4536, 4559, 4583, 4681, 4700, 4718, 4725, 4762, 4862, 4868, 4872, 4893, 4910, 4976, 4983, 5049, 5063, 5086, 5099, 5102, 5096, 5116, 5121, 5124, 5138, 5146, 5166, 5273, 5274, 5275, 5326.

WHEREAS the Council of The Corporation of the District of West Vancouver deems it expedient to provide for amendment to the Bylaw Notice Enforcement Bylaw No. 4368, 2004 to add sections and fine amounts applicable to the new sale of bear spray regulations;

NOW THEREFORE, the Council of The Corporation of the District of West Vancouver enacts as follows:

Part 1 Citation

- 1.1 This bylaw may be cited as Bylaw Notice Enforcement Bylaw No. 4368, 2004, Amendment Bylaw No. 5330, 2024.

Part 2 Severability

- 2.1 If a portion of this bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of this bylaw is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phrase.

Part 3 Schedule A Amendments

- 3.1 Bylaw Notice Enforcement Bylaw No. 4368, 2004 is amended by inserting into Schedule A – Designated Bylaw Contraventions and Penalties under the heading Business Licence Bylaw No. 4455, 2004 the following new designated bylaw contraventions and penalties in proper numerical order:

Amendment Bylaw No.	Section	Description	A1 Penalty	A2 Early Payment Penalty	A3 Late Payment Penalty	A4 Compliance Agreement Available <small>(*Maximum 50% Reduction in Penalty Amount Where Compliance Agreement is Shown as "Yes")</small>
Business Licence Bylaw No. 4455, 2005						
5330, 2024	7.9.1(a)	Sell bear spray to a person under 19 years of age	\$500.00	\$450.00	\$500.00	NO
5330, 2024	7.9.1(b)	Sell bear spray to a person who does not provide authorized identification	\$500.00	\$450.00	\$500.00	NO
5330, 2024	7.9.2(a)	Fail to keep bear spray in locked area or area otherwise inaccessible to public	\$500.00	\$450.00	\$500.00	YES
5330, 2024	7.9.2(b)	Fail to make required record of each sale of bear spray	\$500.00	\$450.00	\$500.00	NO
5330, 2024	7.9.2(c)	Fail to keep record of sale of bear spray for 12 months	\$500.00	\$450.00	\$500.00	NO
5330, 2024	7.9.2(d)	Fail to provide record of sale of bear spray upon request	\$500.00	\$450.00	\$500.00	NO

READ A FIRST TIME on

READ A SECOND TIME on

READ A THIRD TIME on

ADOPTED by the Council on

Mayor

Corporate Officer

Appendix C

WVPD Statistics Involving the Illegal Use of Bear Spray 2022-2023

Seizure/Relinquishment Year	2022	2023	Grand Total
YES	13	28	41
NO	17	17	34
Grand Total	30	45	75

Count of Primary UCR Code	Year		
Crime Type	2022	2023	Grand Total
ASSAULT-W/WEAPON OR CBH (1420 - 0)	5	7	12
WEAPONS-POSSESSION (3375 - 0)	6	5	11
THEFT-SHOPLIFTING UNDER \$5000 (2143 - 0)	3	4	7
SUSPICIOUS PERS/VEH/OCCURRENCE (8190 - 8)	2	3	5
PROPERTY-FOUND (8190 - 20)	1	3	4
UTTER THREATS AGAINST PERSON (1627 - 0)	1	3	4
CAUSE A DISTURBANCE (3430 - 0)	2	1	3
INTELLIGENCE-CRIMINAL OTHER (8450 - 23)	1	1	2
SPECIAL EVENTS (8420 - 90)		2	2
ASSIST PUBLIC OR UNWANT GUEST (8190 - 0)	1	1	2
ASSIST-MUNICIPAL AGENCY (8900 - 5)	1	1	2
PROPERTY SEIZED-WEAPON (8190 - 98)		2	2
ASSAULT-COMMON (1430 - 0)	1	1	2
MISCHIEF \$5000 OR UNDER (2170 - 4)	1	1	2
ROBBERY W/OTHER OFFENSIVE WPN (1610 - 2)	1		1
BREAK & ENTER-RESIDENCE (2120 - 2)	1		1
FRAUD-OTHER (2160 - 80)		1	1
PROPERTY FOUND-WEAPON (8190 - 92)		1	1
ASSAULTS-OTHER (1480 - 0)		1	1
CHECKSTOP PROGRAM/ROAD BLOCK (8120 - 6)		1	1
FIREARM SEIZURE/PUBLIC SAFETY (8210 - 8)	1		1
DISTURBED PERSON/ATT SUICIDE (8190 - 90)		1	1
THEFT FROM MV UNDER \$5000 (2142 - 0)		1	1
PROPERTY-LOST (8190 - 4)		1	1
TRAFFICKING-OTHER SCHED I (4230 - 6)		1	1
PROPERTY-SEIZED (8190 - 97)		1	1
CHECK WELL-BEING (8190 - 22)	1		1
RECOVERED OUTSIDE STOLEN VEH (8900 - 7)		1	1
OBSTRUCT PEACE/PUBLIC OFFICER (3470 - 0)	1		1
Grand Total	30	45	75

Count of Youth Involved?	Year		
Crime Type	2022	2023	Grand Total
ASSAULT-W/WEAPON OR CBH (1420 - 0)	1	5	6
WEAPONS-POSSESSION (3375 - 0)	1	3	4
SUSPICIOUS PERS/VEH/OCCURRENCE (8190 - 8)	1	2	3
CAUSE A DISTURBANCE (3430 - 0)	1	1	2
THEFT-SHOPLIFTING UNDER \$5000 (2143 - 0)	1	1	2
SPECIAL EVENTS (8420 - 90)		2	2
FIREARM SEIZURE/PUBLIC SAFETY (8210 - 8)	1		1
ROBBERY W/OTHER OFFENSIVE WPN (1610 - 2)	1		1
CHECK WELL-BEING (8190 - 22)	1		1
CHECKSTOP PROGRAM/ROAD BLOCK (8120 - 6)		1	1
TRAFFICKING-OTHER SCHED I (4230 - 6)		1	1
Grand Total	8	16	24



PUBLIC NOTICE

NOTICE OF INTENT TO CONSIDER:

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- in order to add restrictions to the sale of bear spray.

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