



POSSESSION, TRANSPORTATION, AND SALE OF OLEORESIN CAPSICUM (OC) SPRAY PRODUCTS

RECOMMENDATION

That Community and Public Services Committee recommend to City Council:

1. That Administration include in its upcoming amendments to Public Places Bylaw 14614, regulations related to the safe handling and transportation of otherwise legally possessed, non-restricted oleoresin capsicum sprays.
2. That Administration include in its upcoming amendments to Public Places Bylaw 14614, regulations related to the unsafe or negligent discharge of otherwise legally possessed, non-restricted oleoresin capsicum sprays.
3. That Administration prepare an amendment to Business Licence Bylaw 20002, to provide local businesses with clear guidelines related to the individual sale of non-restricted oleoresin capsicum sprays.
4. That the Edmonton Police Service be consulted on proposed bylaw wording for each of the amendments referenced in this motion.

Report Purpose

Council decision required

Executive Summary

- Oleoresin capsicum (OC) spray products are more commonly referred to as pepper spray or bear spray.
- OC spray products can be altered for quick or unsafe use.
- OC spray products can vary in spray range and potency, and some products may affect multiple persons or large areas with just one discharge.
- OC spray-related occurrences have generally been increasing year over year, as per Edmonton Police Service (EPS) and Edmonton Fire Rescue Services (EFRS) data
- EPS data indicates many OC spray-related occurrences are reported in urbanized areas rather than in green spaces or along the edge of the city.

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- There is a lack of clear guidelines available to businesses related to the sale of OC spray products at the local level.
- The proposed amendments can fill numerous gaps in current legislation by being utilized as both a frontline tool and an educational/preventative measure.

REPORT

Internal data collected by the EPS¹ shows reported occurrences involving OC spray have been trending upwards between 2015 – 2021. This includes OC spray involvement in any capacity (i.e., observed, used, seized).² Notably, some canisters involved in criminal events have been found to be manipulated for quick use or to conceal the product. This commonly includes the label being covered or removed, and/or the safety clip being removed. In general, removal of the safety clip also poses a public safety concern for accidental discharges; any type of OC spray discharge may have the ability to affect one or more complainants, depending on potency and spray range.

*Figure 1. Occurrences reported to the EPS involving OC spray in any capacity, by distance to location types, 2015 – 2021:*³

Location Type & Distance	Number of Occurrences	Percent of Total Occurrences
100m of a Bus Stop	8336	62%
400m of a School	6209	46%
50m of a Bus Stop	4356	32%
500m of LRT Station centroid	2670	20%
400m of a Jr/Sr High School	2016	15%
300m of LRT Station centroid	1500	11%
100m of LRT Line	1310	10%
100m of LRT Station centroid	460	3%
Park/greenspace	301	2%

¹ See Attachment 1: *Oleoresin Capsicum (OC) Bylaw Proposal – Copy for City Council 2022* – for full details

² Data collected is based on approximations using the best data extraction methods available at the time of query and many contain incidental files (statistics may be over-reported)

³ May be overlap in location points and therefore percentage total equals over 100% (i.e., one occurrence reported at a bus stop in front of a school will be counted in both categories)

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Upon reviewing locations of occurrences reported to EPS between 2015 – 2021, it was found that approximately 62 per cent of all OC spray-related occurrences took place within ~100 metres from a bus stop. Similarly, approximately 20 per cent of all occurrences were reported to be within ~500 metres from the centre of an LRT station. Further, data shows that approximately 46% of all occurrences involving OC spray were within ~400 metres of a school. Within these near-school occurrences, approximately 32 per cent were noted to be junior or senior high schools. Locations such as bus stops, LRT stations, and schools can be reasonably expected to have higher concentrations of persons.

In contrast, approximately two per cent of all OC spray-related occurrences reported to EPS between 2015 – 2021 were noted to be in a park or greenspace, where OC spray would reasonably be expected to be observed (i.e., carrying bear spray for protection from wildlife).

Regardless of context, OC spray discharges can have operational effects on multiple agencies. For example, EFRS can be called to assist with OC spray occurrences to ventilate a location. Of the EFRS events reported between 2015 – 2021, EFRS events lasted approximately one hour on average. However, some events lasted much longer due to constant ventilation assistance. EFRS events also shed light on occurrences involving accidental discharges of OC spray, which indicate a gap in governance due to the non-criminal nature of these situations. Currently, the EPS can intervene in occurrences involving OC spray in the following situations:

- The canister is used in a criminal manner and can be lawfully seized (i.e., evidence).
- The canister is voluntarily surrendered by the owner for safekeeping or destruction.

Additionally, regulations overseeing OC spray products in non-criminal matters appear to have little to no meaningful or direct impact at the local level (i.e., individual consumers and sales for personal use). OC spray is controlled under regulations such as the *Environmental Protection and Enhancement Act* and the *Canadian Pest Management Regulatory Agency*, however, these focuses remain high level, such as the manufacturing protocols. Utilizing these governances at the local level appear to be complex and involve substantial fines, continuing the gap in preventative and reactive measures available to manage OC spray products.

Request for Amendment(s)

Due to the lack of applicable municipal measures in place, the EPS is requesting Administration to consider amending the Public Places Bylaw 14614 and the Business Licence Bylaw 20002, as a first step to tackle this issue. Specifically, amendments to regulate the safe handling, transportation, and sale of non-restricted OC spray products within the city of Edmonton. These amendments will serve as a frontline tool available to both EPS members and City Peace Officers to begin to prevent further

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opportunities of OC spray discharge, both purposeful and accidental. Furthermore, these amendments will support several commitments made by the City of Edmonton to make Edmonton a safe, attractive, and prosperous place for citizens to live, and for businesses to conduct themselves lawfully and safely.

Amendments should focus on unsafe possession and transportation, and unlawful sales only, as possessing otherwise non-restricted OC spray products for legitimate use is lawful. The necessary requirements for the bylaw amendment(s) should include:

- A broad description of the OC spray to cover all types of devices and a variety of products.
- Clearly be aimed at any type of OC spray whether for use against humans or animals.
- An offence for illegal possession where the safety mechanisms have been tampered with or removed.
- An offence for illegal possession if the label has been tampered with, covered, or removed
- Those offences should be for mere possession alone and the spray should not have to be otherwise used in any illegal or negligent manner.
- A nuisance type offence for negligent discharge in a public place.
- Consistent business rules for the display, storage, and sale of all types of OC spray products.

ATTACHMENTS

1. Attachment 1 - Oleoresin Capsicum (OC) Bylaw Proposal – Copy for City Council 2022
2. Attachment 2 - City of Chilliwack Bylaw No. 5056 A bylaw to protect the public and improve the general welfare of the community through the regulation of pepper spray and bear spray sales
3. Attachment 3 - City of Surrey By-Law No. 13622 (Amended by 13708) Surrey Sale of Pepper Spray Regulation