

# CITY OF KELOWNA

## Sale of Deterrent Spray Bylaw No. 12678

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WHEREAS under section 8(6) of the Community Charter, S.B.C. 2003, c. 26, a municipal council may, by bylaw, regulate in relation to business;

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

### 1. Definitions

1.1. In this bylaw a word, phrase, or term not defined in this section will have the same meaning as Business Licence and Regulation Bylaw No. 12585, as amended or replaced from time to time.

1.2. In this bylaw:

“Authorized Identification” means a current piece of government issued photo identification that includes the bearer’s name, date of birth, and signature.

“Authorized Vendor” means a business that primarily services the need of an outdoor enthusiast or sportsperson.

“Authorized Wholesaler” means a bulk distributor of goods sold to an Authorized Vendor.

“Deterrent Spray” means a repellent device containing capsaicin or related capsaicinoids, such as dihydrocapsaicin or nordihydrocapsaicin or other spray listed in the Pesticide Product Information Database administered by the Federal Pest Management Information Service.

“Register” means a compilation of records in legible English of Deterrent Spray sold or disposed of by the Authorized Vendor.

### 2. Regulations

2.1. An Authorized Vendor or an Authorized Wholesaler may sell, offer to sell, trade, barter, or exchange Deterrent Spray.

2.1.1. No other person or business will sell, offer to sell, trade, barter, or exchange Deterrent Spray.

2.2. An Authorized Wholesaler may only sell Deterrent Spray to an Authorized Vendor which holds a valid business licence under the Business Licence and Regulation Bylaw No. 12585.

2.3. An Authorized Vendor

2.3.1. will not display, shelve, or store Deterrent Spray in an area accessible to the public.

2.3.2. will not sell, offer to sell, trade, barter, or exchange Deterrent Spray to

(a) a person under the age of 18 years;

(b) a person who does not present Authorized Identification;

(c) a person who the Authorized Vendor assumes is purchasing Deterrent Spray for a person under the age of 18 years or a person who is not in possession of Authorized Identification;

(d) a person who indicates they are purchasing other than for its intended purpose; or

(e) a person who does not complete the Register.

2.3.3. must maintain a Register in chronological order of date of sale or disposal.

(a) A record for the Register will be completed at the time of the sale or disposal.

(b) A record for the Register must be maintained for 3 years from the date of the sale or disposal.

- 2.4. A record for the Register will include the
  - 2.4.1. product name, volume, quantity, and serial number;
  - 2.4.2. date and hour of the sale; and
  - 2.4.3. purchaser's name, phone number, full civic address including postal code, and Authorized Identification type.
3. Inspection
  - 3.1. Subject to Section 16 of the *Community Charter* and section 3.2 of this bylaw, an Authorized Vendor will produce a Register for a Bylaw Enforcement Officer or police officer.
  - 3.2. An Authorized Vendor will produce a Register for a person listed in section 3.1. only when it can be reasonably expected to assist in
    - 3.2.1. protection and enhancement of the safety and well-being of the community; or
    - 3.2.2. enforcement of this bylaw.
4. Penalty
  - 4.1. Every person who violates a provision of this Bylaw commits an offence and is liable on summary conviction to a penalty not exceeding Fifty Thousand Dollars (\$50,000.00) and the costs of prosecution.
  - 4.2. Each day a violation of the provision of this bylaw exists or is permitted to exist will constitute a separate offence.
  - 4.3. A penalty imposed pursuant to this bylaw will be in addition to, and not in substitution for, any other penalty or remedy imposed pursuant to any other applicable statute, law, or legislation.
5. Severability
  - 5.1. 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.
6. This bylaw may be cited as "Sale of Deterrent Spray Bylaw No. 12678".
7. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first, second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk