



REPORT

Report Date: July 6, 2020
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Meeting Date: July 21, 2020
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TO: Vancouver City Council

FROM: Fire Chief, General Manager of Vancouver Fire and Rescue Services and
General Manager of Development, Buildings and Licensing

SUBJECT: Regulating Exploding Animal Deterrent Devices (Bear Bangers)

RECOMMENDATION

- A. THAT Council approve, in principle, amendments to the Fire By-law No. 12472 to prohibit the discharge of exploding animal deterrents in Vancouver;
- FURTHER THAT the Director of Legal Services be instructed to bring forward for enactment by Council a By-law to amend the Fire By-law, set out in Appendix A, to be effective immediately.
- B. THAT Council approve, in principle, amendments to the Fire By-law No. 12472 to prohibit the sale of exploding animal deterrents in Vancouver;
- FURTHER THAT the Director of Legal Services be instructed to bring forward for enactment by Council a By-law to amend the Fire By-law, set out in Appendix A, to be effective immediately.
- C. THAT Council approve, in principle, amendments to the Ticket Offences By-law No. 9360 to make discharge of exploding animal deterrents in Vancouver a ticketable offence;
- FURTHER THAT the Director of Legal Services be instructed to bring forward for enactment by Council a By-law to amend the Ticket Offences By-law, set out in Appendix B, to be effective immediately.

REPORT SUMMARY

This report makes recommendations for banning the discharge and retail sale of exploding animal deterrents in Vancouver. Exploding animal deterrents is the technical term for devices commonly known as bear bangers that also include but not limited to air bangers and seal bombs. These devices have been identified as the source of loud, explosive noises being reported by residents across downtown and surrounding areas over the course of April to July 2020. There is evidence that exploding animal deterrents have been modified for use as improvised explosive devices (IEDs), posing a threat to public safety. A ban on the discharge and retail sale of exploding animal deterrents will address concerns over nuisance and public safety, align the City's regulatory approach with relevant federal regulations and provincial guidelines, and is supported by numerous stakeholder groups. Vancouver residents who use exploding animal deterrents for their intended purpose can continue to purchase them online or in retail stores in neighbouring jurisdictions.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

On June 9, 2020 Council directed staff to prepare recommendations to enact a by-law or amendment(s) to a current by-law to ban the use and restrict or license the sale of bear bangers in the City of Vancouver and return to Council for enactment as soon as possible.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The City Manager recommends approval of the foregoing.

REPORT

Background/Context

Discharge, Sale and Modification of Exploding Animal Deterrents, including Bear Bangers:

In April 2020, the City began to receive an increasing number of complaints about explosive sounds heard throughout downtown and surrounding areas. By early June, the City's 311 service had logged 167 complaints. The Vancouver Police Department (VPD) reported a similar increase in complaints of this nature. A complaint history by month is provided in Appendix C.

VPD determined that the discharge of exploding animal deterrents designed for use in wilderness encounters with animals, most commonly bears, are the likely source of some explosive sounds. These devices, which include but are not limited to bear bangers, air bangers and seal bombs, are usually discharged from launching devices such as pen-launchers and .22 calibre or 12 gauge launchers, and they travel between 20 to 100 meters before letting out an explosive bang.

These devices are sold at outdoor supply stores in Vancouver and throughout the Lower Mainland, and online. They are relatively inexpensive; a pack of six costs approximately \$20.

Retailers are not required to maintain records of purchasers, or to limit sales. Exploding animal deterrents are purchased by people who work in industries like forestry and mineral exploration, and also by people who go to the outdoors for recreational purposes.

Investigation and enforcement responsibilities related to public complaints are shared between the City's Property Use Inspectors (PUIs) (noise complaints) and VPD (public disturbance, criminal mischief and/or breach of the peace).

PUIs investigate potential violations of the Noise By-law. Enforcement challenges include the following:

- Complaints are lodged after-the-fact, with PUIs usually notified of the complaint after the incident has occurred.
- Enforcement is difficult without witnessing the perpetrator committing the act.

Enforcement can be easier to pursue if the offence occurs repeatedly at the same location or in a residential location.

Where appropriate, VPD will investigate complaints of public disturbance, criminal mischief and/or a potential breach of the peace when there is a concern for public safety (i.e. the perpetrator is using an exploding animal deterrent as a weapon), and if the caller knows where the sound is originating from. The VPD will also address safety concerns that result from the modification of exploding animal deterrents which can carry a larger potential for injury or harm. Neither VPD nor City departments have a system for offering rewards to the public for providing complaints and/or information on noise complaints or mischief calls.

On June 9, 2020, Council directed staff to bring forward recommendations to regulate the use and licence the sale of bear bangers to address the problem of their discharge in the city. Subsequent consultation with VPD revealed that in addition to being inappropriately discharged, exploding animal deterrents, including bear bangers, are being combined with ball bearings and a fuse to create improvised explosive devices (IEDs). Incidents include an IED that was placed against the wall of a building downtown and set off; the explosion shook the walls and caused significant distress to residents and people in the vicinity. In another instance, VPD found a stuffed animal toy in a downtown park with an IED strapped to the underside.

Regulation on the Sale of Exploding Animal Deterrents in Canada

There are no federal restrictions on the purchaser of exploding animal deterrents, including bear bangers, provided the sale of the contents is less than 1,000 kg gross weight. Unlike bear spray, there are no requirements for retailers to record information about purchasers or collect a signed waiver. While exploding animal deterrents are intended to alert or frighten a bear at long range, bear spray is intended for use at close range and is considered a pesticide by Health Canada. As such, it is regulated under the *Pest Control Products Act* and retailers of bear spray are required to gather the following information at the time of sale:

- Purchaser's name and address;
- The amount of bear spray purchased; and
- A signed Notice to Purchaser Agreement that outlines the legal uses of bear spray and contains a liability warning.

It is illegal to sell bear spray to anyone under the age of 18 or to anyone unwilling to sign the Notice to Purchaser Agreement.

There are no provincial regulations on the sale of exploding animal deterrents. The City of Vancouver does not regulate the sale of exploding animal deterrents, and staff were unable to identify any Canadian municipalities that regulate the sale.

Regulations on the Use of Exploding Animal Deterrents in Canada

The use of exploding animal deterrents for purposes other than bear or other wildlife deterrent is illegal under federal explosives regulation. Further, their use is prohibited in national parks. Parks Canada recommends a protocol of alerting wildlife to human presence by travelling in groups and speaking loudly, singing or carrying a noise making device like pebbles in a can, and carrying bear spray for close encounters.

BC Parks does not prohibit the use of exploding animal deterrents or noise makers in provincial parks, but it does not recommend them as a bear deterrent. Exploding animal deterrents carry the risk of frightening wildlife toward the user, can injure the user, and are a potential fire hazard in dry conditions. Both BC Parks and the BC Conservation Officer Services recommend a bear deterrent protocol similar to Parks Canada.

A number of BC municipalities regulate the use of exploding animal deterrents due to concerns over noise and public safety:

- The Cities of Rossland and Delta prohibit the discharge of exploding animal deterrents within City limits;
- The Cities of Vernon and Dawson Creek restrict the discharge exploding animal deterrents within city limits to users who have obtained a Discharge of Firearm Permit from the municipality; and
- The City of Pitt Meadows and the Township of Langley ban the use of exploding animal deterrents for the purposes of bird or pest control.

There are currently no specific by-law restrictions on the use of exploding animal deterrents in the City of Vancouver. Exploding animal deterrents are not classified as a firework and thus do not fall under the City's regulation and restrictions on the sale and use of fireworks.

Stakeholder Consultation:

In exploring options for regulation of the discharge and retail sale of exploding animal deterrents in Vancouver, staff consulted with a wide range of stakeholders including:

- Nine (9) Retailers and three (3) suppliers;
- Two (2) industry associations representing industries that use exploding animal deterrents for worker protection in the field;
- Four (4) outdoor recreation clubs and associations;
- Three (3) conservationist groups, including WildSafeBC;
- The B.C. Conservation Officer Services; and
- The B.C. Society for the Prevention of Cruelty towards Animals (BCSPCA).

The aim of the consultation was to gauge the potential impact of and support for regulation of exploding animal deterrent use and sale in the city. Most of the groups consulted were supportive of a ban on the discharge and retail sale of exploding animal deterrents in Vancouver, with the exception of some retailers and a few outdoor recreation and industry groups that do not support a ban on sale. A full list of the organizations consulted, the consultation questions, and a summary of consultation findings by stakeholder group are attached in Appendix D.

Strategic Analysis

Prohibiting the Use of Exploding Animal Deterrents

On June 9, 2020, Council instructed staff to prepare recommendations to enact a by-law or amendments to current by-law to ban the use of bear bangers in the Vancouver. A ban on discharge of exploding animal deterrents, including bear bangers, would achieve the following policy objectives:

- *Alignment with federal and provincial regulations and guidelines:* The discharge of exploding animal deterrents other than their intended purpose as an animal deterrent is illegal under federal explosives regulation. Furthermore, provincial guidelines do not recommend the usage of exploding animal deterrents. Given the very rare sightings of bears within Vancouver, there are no legitimate purposes for the use of exploding animal deterrents within city limits.
- *Mitigate nuisance activity:* The loud sound from the discharge of exploding animal deterrents within city limits, especially in dense residential neighbourhoods, has not only caused discomfort for local residents, but can also be detrimental to pets and people suffering from mental health issues such as post-traumatic stress disorder.
- *Public safety:* The VPD has documented cases of exploding animal deterrents that have been combined with ball bearings and a fuse to create improvised explosive devices (IEDs), thus exacerbating the risk to public safety. A by-law that prohibits the use of exploding animal deterrents with penalties for non-compliance will provide an additional tool for the VPD to enforce against persons who discharge exploding animal deterrents inappropriately and protect public safety.

Recommendation:

Staff recommends amendments to the Fire By-law to prohibit the discharge of exploding animal deterrents in Vancouver and the Ticket Offences By-law to make their discharge a ticketable offence with a fine of \$1000.00.

If Council approves the by-law amendments, staff will implement a communications campaign to increase public awareness of the prohibition on discharge and ticket offence.

Enforcement:

Tickets for discharge would be issued by the Vancouver Fire and Rescue Services (VFRS) and VPD. Tickets can only be issued when a person is caught in the act of discharging an exploding animal deterrent by VFRS or VPD or when enough evidence is gathered to support that a person committed a by-law offence.

Regulating the of Sale of Exploding Animal Deterrents

Staff considered options for regulating the retail sale of exploding animal deterrents with the following policy objectives in mind:

- Restricting access to exploding animal deterrents to persons who use them for their intended purpose;
- Protect public safety; and
- Minimize disruption on retailers.

While the City could regulate the sale of exploding animal deterrents by requiring retailers to ask for legal identification from the purchaser and to maintain a record of the purchaser's name and contact information, it was determined that this approach would not deter people from purchasing exploding animal deterrents for nuisance purposes, and therefore not be effective in restricting access. Federal regulations currently do not require exploding animal deterrents, cartridges and their packaging to carry a serial number. As such, the City would not be able to trace used cartridges or discarded exploding animal deterrents to their purchaser.

A more comprehensive approach would be to ban the retail sale of exploding animal deterrents altogether. Some retailers that staff consulted did not support a ban on sale but acknowledged that a ban will not severely impact their operating or financial health as exploding animal deterrents represent a small portion of their overall sales. Although public access would be restricted in Vancouver, public safety in the outdoors would not be significantly compromised as their use as a bear deterrent is not recommended by both BC Conservation Services and BC Parks. Furthermore, people who use exploding animal deterrents for their intended purpose can still purchase them online, or through non-Vancouver based retailers and suppliers. The manipulation of exploding animal deterrents into IEDs has also elevated the risk to public safety, which justifies a ban on the sale in the City. This approach is supported by stakeholders including the VPD, BC Conservation Officer Service, conservationist groups, select industry groups and the BCSPCA.

Recommendation:

Staff recommends amendments to the Fire By-law to prohibit the sale of exploding animal deterrents in the City.

If Council approves the by-law amendments, staff will implement a communications campaign to inform retailers and increase public awareness of the prohibition on retail sales.

Enforcement:

Enforcement on the unlawful sale of exploding animal deterrents would be complaint-based or if witnessed by VFRS or VPD. VFRS and VPD would investigate and take steps to bring a retailer or any person selling an exploding animal deterrent into compliance with the ban, including warnings, MTIs with a fine of \$1000, and long-form prosecution. Evidence of sale confirming a violation of the Fire By-law would be used to conduct a Business Licence Practice Review with the operator, and further enforcement under the Licence By-law may occur, including a business licence suspension or non-support for renewal.

Implications/Related Issues/Risk***Financial***

There are no financial implications.

Legal

Proposed amendments to the Fire By-law and Ticket Offences By-law that will ban the discharge and sale of exploding animal deterrent devices and allow the City to issue fines for offences are attached in Appendix A and B respectively.

CONCLUSION

This report has outlined staff's recommendations to amend the Fire By-law to ban the use and sale of exploding animal deterrents in the City, as well as the Ticket Offence By-law to make the discharge and sale of exploding animal deterrents a ticketable offence. The recommended approach will address public concerns over safety and nuisance, and is aligned with federal explosives regulations and provincial guidelines on which bear deterrent devices are appropriate for outdoor use in provincial parks. A ban on the use and sale of exploding animal deterrents is supported by most stakeholders and organizations consulted, with the exception of some retailers and a few outdoor recreation and industry groups that do not support a ban on the sale. Vancouver residents who use exploding animal deterrents for their intended purpose may continue to purchase them online or in retail stores in neighbouring jurisdictions.

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**DRAFT By-law to amend Fire By-law No. 12472
Regarding Exploding Animal Deterrents**

Note: A By-law will be prepared generally in accordance with the provisions listed below, subject to change and refinement prior to posting.

1. This By-law amends the indicated provisions of Fire By-law No. 12472.
2. In section 1(c) of Schedule A, Council:
 - (a) adds the following new definition in the correct alphabetical order:

“Exploding Animal Deterrent” means a type of low-hazard special purpose explosive that produces only noise designed to scare away bears and other animals, that includes but is not limited to devices known as air bangers, bear bangers, and seal bombs.”;
 - (b) in the definition of *Explosives*, adds “, but does not include *exploding animal deterrents*” after “and includes *fireworks*”;
 - (c) adds the following new definition in the correct alphabetical order:

“Low-hazard special purpose explosives” means explosives that have been classified as Type S.1 in accordance with the Explosives Regulations under the Explosives Act (Canada).”; and
 - (d) adds the following new definition in the correct alphabetical order:

“Chief Constable” means the Chief Constable of the City for the time being and any person authorized to act on behalf of the Chief Constable.”.
3. In section 36 of Schedule B, Council adds the following new Article in the correct numerical order:

“5.7.2.4. Exploding Animal Deterrent Regulations

- 1)** No person shall sell, offer for sale, or discharge *exploding animal deterrents*.
- 2)** The *Fire Chief* or the *Chief Constable* may seize *exploding animal deterrents* that are sold, offered for sale, or discharged in violation of this By-law and may dispose of such *exploding animal deterrents* without compensation to any person.”.

**DRAFT By-law to amend the
Ticket Offences By-law No. 9360 regarding Exploding Animal Deterrents**

Note: A By-law will be prepared generally in accordance with the provisions listed below, subject to change and refinement prior to posting.

1. This By-law amends the indicated provisions and schedules of By-law No. 9360.
2. In Table 8.2, Council adds a new row in the appropriate numerical order as follows:

“

	Sell, offer for sale or discharge exploding animal deterrents	5.7.2.4.(1) Division B	\$1,000.00
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”

Number of citizen complaints to 3-1-1 regarding exploding animal deterrents, including bear bangers (April to July 2020):

Month (2020)	Number of complaints
April	0
May	96
June	81
July (up to July 8)	3

Number of calls for service to the VPD regarding exploding animal deterrents, including bear bangers (January to June 2020)

Month (2020)	Number of calls
January	2
February	1
March	3
April	28
May	149
June	162
July (up to July 8)	16

Note: These callers, and subsequent complaints, are not necessarily mutually exclusive.

**SALE AND USE OF BEAR BANGERS (EXPLODING ANIMAL DETERRENTS)
CONSULTATION**

Purpose of consultation:

To obtain feedback on the stakeholder’s current use and sale of exploding animal deterrents, including bear bangers, as well as their opinions on regulating the sale and use of exploding animal deterrents in the City of Vancouver.

Detailed consultation findings by stakeholder group:		
<i>Stakeholder group and organizations consulted</i>	<i>Consultation questions</i>	<i>Summary of consultation findings</i>
Retailers that sold exploding animal deterrents: 1. Canadian Tire (Cambie location) 2. Canadian Tire (Grandview location) 3. Deakin Outfitting 4. Lever Arms 5. Michael & Young Fly Shop 6. Mountain Equipment Co-op 7. Reliable Gun Vancouver 8. Sport Check 9. Valhalla Pure Outfitters	<ul style="list-style-type: none"> • Do you sell bear bangers? • Are they a popular item? • Do you know the purposes people are buying them for such as hiking? • Do you restrict the number of bear bangers one person can purchase? • How many do people typically buy at one time? • Although it is not required, do you maintain records of people who purchase bear bangers similar to what is required under federal regulation when selling bear spray such as having the buyer sign a waiver and provide their contact details? • If you could not sell bear bangers at stores in Vancouver, what impact would this have on you/your business? <ul style="list-style-type: none"> - Does the sale of bear bangers account for: - Less than 5% of overall sales - More than 5% but less than 10% of overall sales - More than 10% of sales but less than 20% of overall sales - More than 20% of sales • Is there anything else you would like to say on this matter? 	<ul style="list-style-type: none"> • None of the retailers consulted restrict the quantity of sale; one retailer records the contact information of purchasers of bear bangers • Some retailers believe responsibility over usage should fall on the purchaser. • Gun stores and industry outfitters do not support a ban on sale. • Retailers acknowledge a ban is unlikely to significantly impact their bottom line as bear bangers represent a small portion of overall sales – some noted they also sells other safety products (e.g. bear spray).
Suppliers of exploding animal deterrents: 1. Tru Flare 2. Kodiak Wildlife 3. Margo Supplies	<ul style="list-style-type: none"> • Do you supply bear bangers to retailers in Vancouver and if so, approximately how many retailers? • What types of bear banger products do you sell? • Are there any requirements or 	<ul style="list-style-type: none"> • Prohibition on sales in Vancouver would have a negligible impact on their overall sales • Do not sell to general public; sales are mostly to

Detailed consultation findings by stakeholder group:		
<i>Stakeholder group and organizations consulted</i>	<i>Consultation questions</i>	<i>Summary of consultation findings</i>
	<p>restrictions for buyers/retailers when purchasing bear bangers from your company?</p> <ul style="list-style-type: none"> • Are there any restrictions on how many can be purchased in one order? • If bear bangers were not allowed to be sold in Vancouver, what impact would this have on your business? • Would you support this type of regulation (Not allowing bear bangers to be sold in Vancouver)? • If the City were to ban the sale of bear bangers in the City of Vancouver, how would that affect your business? • Do you maintain records of people/businesses that purchase bear bangers similar to what is required under federal regulation when selling bear spray such as having the buyer sign a waiver and provide their contact details? • Is there anything else you would like to add on this topic? 	<p>institutions, farmers or other distributors</p> <ul style="list-style-type: none"> • Records of sales (contact and quantity of purchase) are maintained • One supplier thought prohibition would be an extreme reaction
<p>Provincial government agencies: 1. BC Conservation Officer Services</p>	<ul style="list-style-type: none"> • What bear deterrents does your organization recommend people carry for bear encounters? • Should bear bangers be carried by the public when they are in the wilderness? Why/Why not? • If companies/individuals could not purchase bear bangers at stores in Vancouver, in your opinion, what impact would this have on public safety? • Is there anyone else we should we talking to? 	<ul style="list-style-type: none"> • The agencies consulted do not recommend the use of bear bangers outdoors – instead, people should alert bears by making noise, carry bear spray, and know how to use it. • Restrictions on the sale and use of bear bangers by the City of Vancouver will not impact public safety and might increase people’s awareness of the recommended wildlife encounter measures and devices.
<p>Outdoor recreation clubs and associations:</p>	<ul style="list-style-type: none"> • Do members in your group or organization carry bear bangers? • Do you recommend members of 	<ul style="list-style-type: none"> • The recreational groups consulted either have no position on the usage of

Detailed consultation findings by stakeholder group:		
Stakeholder group and organizations consulted	Consultation questions	Summary of consultation findings
<ol style="list-style-type: none"> 1. Outdoor Recreation Council of B.C. 2. B.C. Mountaineering Club 3. Hike B.C. 4. Alpine Club of Canada 	<p>your organisation carry bear bangers when doing wilderness activities?</p> <ul style="list-style-type: none"> • If the members in your group or organization carry bear bangers, do you know where do they purchase their bear bangers from? (e.g. a retail store in Vancouver, or online, etc.) • Are you aware of other types of bear deterrent devices? • If individuals could not purchase bear bangers at stores in Vancouver, what impact would this have on your members? • Would you support a ban on the sale and use of bear bangers? 	<p>bear bangers or recommends its usage depending on where members are going (e.g. grizzly country)</p> <ul style="list-style-type: none"> • Bear spray are a more popular bear deterrent although its usage is prevalent among some groups (e.g. recreational hunters). • Banning the sale of bear bangers would be inconvenient for recreationists who reside in Vancouver but will not severely limit access as bear bangers can be purchased online
<p>Conservationist groups:</p> <ol style="list-style-type: none"> 1. North Shore Black Bear Society 2. Nature BC 3. WildSafeBC (BC Conservation Foundation) 	<ul style="list-style-type: none"> • Do members in your group or organization carry bear bangers? • Do you recommend members of your organisation carry bear bangers when doing wilderness activities? • If the members in your group or organization carry bear bangers, do you know where do they purchase their bear bangers from? (e.g. a retail store in Vancouver, or online, etc.) • Are you aware of other types of bear deterrent devices? • If individuals could not purchase bear bangers at stores in Vancouver, what impact would this have on your members? • Would you support a ban on the sale and use of bear bangers? 	<ul style="list-style-type: none"> • The conservationist groups consulted do not recommend using bear bangers as a deterrent device because: <ul style="list-style-type: none"> ○ Bear bangers often “backfire”, scaring the bear towards the user; ○ Bear bangers are a fire hazard in the wilderness, especially during the summer; and ○ There are known quality issues with bear bangers which a pose a safety risk to the user. • Restrictions on the sale and use of bear bangers by the City of Vancouver will not impact public safety and might increase people’s awareness of the recommended wildlife encounter measures and devices.

Detailed consultation findings by stakeholder group:		
Stakeholder group and organizations consulted	Consultation questions	Summary of consultation findings
<p>Industry groups:</p> <p>Forestry</p> <p>1. Western Forestry Contractors' Association (WFCA)</p> <p>Mineral Exploration</p> <p>1. Association for Mineral Exploration</p>	<ul style="list-style-type: none"> • Are bear bangers carried by people in your field of work? • Are people who work in the field provided specific training in the use of bear bangers? • Where do people in your industry purchase bear bangers? [does the company purchase in bulk or do individuals purchase for themselves? Follow up accordingly] • Do you purchases bear bangers in Vancouver? Do you ever purchase online? • If companies/individuals could not purchase bear bangers at stores in Vancouver, what impact would this have on your business/industry? 	<ul style="list-style-type: none"> • Forestry and mining exploration crew use bear bangers in the field for safety purposes. • Bear bangers are mostly purchased online or in stores outside Vancouver - a restriction on the sale of bear bangers in Vancouver will not significantly impact industry operations
<p>BCSPCA</p>	<ul style="list-style-type: none"> • What is the impact of explosives, such as fireworks and bear bangers, on pets? • Are they ware of any cases of pets in distress or have gone missing in Vancouver due to the discharge of bear bangers? • Would the BCSPCA be supportive of a ban on the use and sale of bear bangers in Vancouver? 	<ul style="list-style-type: none"> • The BCSPCA is unaware of any documented cases of pets in distress or have gone missing due to bear bangers, but that may be because cases attributed to fireworks were actually due to bear bangers – individual pet owners are likely unable to distinguish between the sound of the two • The BCSPCA is supportive of any regulations that mitigate the discharge of loud explosives, including bear bangers – the BCSPCA has expressed support for the ban on the sale and use of consumer fireworks.