OUTDOOR SMOKING BYLAW: RESEARCH SUMMARY

Disposition Details (June 12, 2017)

Standing Policy Committee on Protection, Community Services and Parks

"Conduct a cross-jurisdictional review of Canadian municipalities and other Canadian regulatory agencies and/or legislations on prohibitions related to cigarettes, cigars, pipes, e-cigarettes, water pipes, hookahs, and other similar products/devices that generate second hand smoke on outdoor patios at restaurants and bars."

Research Highlights

1. 10 Canadian cities included in jurisdictional scan
2. 8 Provincial bylaws reviewed
3. Most municipalities:
    - focus on educating the public as opposed to enforcement
    - state that enforcement is usually complaint-based
    - state that there have been little to no infractions since the commencement of the regulation
4. All municipalities (or provinces, where applicable) provide an outdoor smoking exemption for Indigenous ceremonial use
5. For most jurisdictions, the posting of and need for signage has not been a serious issue, as the public's etiquette towards smoking drives much of the public's smoking behaviour in publicly-accessible spaces.
6. Much of the responsibility to enforce the smoking prohibition on patios falls upon the business owner
7. With the enactment of the regulation, some municipalities such as Ottawa have developed documents to assist businesses with their transition

Section 1: Regulation Review

1. Is the prohibition of OUTDOOR PATIO SMOKING driven by a MUNICIPAL regulation or a PROVINCIAL regulation?

	Municipal	Provincial	Both
Victoria	✓		
Vancouver	✓		
Calgary			✓
Edmonton			✓
Saskatoon			✓
Regina	✓		
Toronto			✓
Ottawa			✓
Fredericton		✓	
St John's		✓	

2. How does the MUNICIPAL regulation define smoking?

Municipal definitions vary slightly and include explicit definitions as well as outline prohibited devices as per the table below. (Please refer to jurisdictional scan for detailed definitions)

3. As per the regulation, what products or devices are prohibited for use on restaurant / bar patios?

BC	Alberta	Saskatchewan	Ontario	NB	PEI	NS	NFLD
Lit tobacco + e -cigarettes*			Tobacco only**	Lit tobacco + e -cigarettes*			

Victoria	Vancouver	Calgary	Edmonton	Saskatoon	Regina	Toronto	Ottawa	Fredericton	St John's
Tobacco Only	Lit tobacco + e-cigarettes	Lit tobacco + e-cigarettes	Lit tobacco + e-cigarettes	Lit tobacco + e-cigarettes	Lit tobacco + e-cigarettes	Tobacco Only **	Tobacco Only **	Tobacco + water pipe	Lit tobacco + e-cigarettes

* Most jurisdictions include near-identical definitions for prohibited devices. See detailed spreadsheet for more information
** E-cigarettes and vaping are included in the provincial regulation but have yet to be proclaimed into force by the Minister

4. Are there any exemptions to the OUTDOOR PATIO SMOKING prohibition within the MUNICIPAL regulation as they relate to the business type or classification?

Victoria	Vancouver	Calgary	Edmonton	Saskatoon	Regina	Toronto	Ottawa	Fredericton	St John's
No	No	No	"Legislative Exceptions" that defer to Province or Feds	No	No	Royal Canadian Legion	No	No	No

5. Are there any exemptions within the MUNICIPAL regulation as they relate to physical spaces on the business property?

Victoria	Vancouver	Calgary	Edmonton	Saskatoon	Regina	Toronto	Ottawa	Fredericton	St John's
No	No	No	No	No	No	Royal Canadian Legion	No	No	No

6. Does the MUNICIPAL regulation include square footage / spaces outside of the business property boundary that would also be subject to the regulation?

Victoria	Vancouver	Calgary	Edmonton	Saskatoon	Regina	Toronto	Ottawa	Fredericton	St John's
7m from door, window or air intake	**6m** from perimeter of a customer service area*	**5m** from entrance or exit	**5m** from door, window or air intake	No	No	No	No	No	No

***** See detailed spreadsheet for definition of "customer service area"
** Provincial regulation
Note: More than one jurisdiction does impose a radius enforcement area but those areas do not include restaurants, patios and bars.

7. Are there any exceptions to the MUNICIPAL regulation relating to Indigenous ceremonial tobacco use?

Victoria	Vancouver	Calgary	Edmonton	Saskatoon	Regina	Toronto	Ottawa	Fredericton	St John's
YES									

8. Who is mandated to enforce the MUNICIPAL regulation?

Victoria	Vancouver	Calgary	Edmonton	Saskatoon	Regina	Toronto	Ottawa	Fredericton	St John's
Bylaw Enforcement Officers	Bylaw Enforcement Officers	Peace Officers and Police	Peace Officers*	Saskatoon Police	Regina Police & Bylaw Enforcement Officers	Enforcement Officers	Inspectors**	Inspectors**	Inspectors** & Police officers- (vehicle related offences)

*Peace officer- Have the authority to enforce any city bylaw and specific provincial statutes and their mandate is to focus on particular issues affecting the community (as per The City of Edmonton's website)
**Refer to spreadsheet for the definition of "Inspector"

9. What role (if any) is the business mandated to play in enforcing the MUNICIPAL regulation with customers and / or employees?

	Must not permit smoking on property	Post signage	Ensure no ashtrays
Victoria	✓		
Vancouver	✓		
Calgary	✓		
Edmonton	✓		
Saskatoon	✓	✓	
Regina	✓		
Toronto	✓	✓	✓
Ottawa	✓	✓	✓
Fredericton	✓	✓	✓
St John's		✓	

10. Which party is the target for enforcement penalties?

Victoria	Vancouver	Calgary	Edmonton	Saskatoon	Regina	Toronto	Ottawa	Fredericton	St John's
Proprietors and customers									

Section 2- Follow up Discussions with Municipalities (Complete responses can be found in research results spreadsheet)

**n/a = unable to contact or did not respond to requests for information

11. Enforcement: Proactive or complaint-based?

Victoria	Vancouver	Calgary	Edmonton	Saskatoon	Regina	Toronto	Ottawa	Fredericton	St John's
n/a	Complaint -based	Complaint -based	Complaint -based	Complaint -based	Education and Complaint-based	Both	Complaint -based	n/a	n/a

12. Number of charges laid on patio smoking in 2016?

Victoria	Vancouver	Calgary	Edmonton	Saskatoon	Regina	Toronto	Ottawa	Fredericton	St John's
n/a	0	0	Un-determined	Saskatoon Police enforce and are unable to provide stats	0 (Bylaw enacted in 2017)	Un-determined	0	n/a	n/a

13. Is signage provided by the City or by businesses?

Victoria	Vancouver	Calgary	Edmonton	Saskatoon	Regina	Toronto	Ottawa	Fredericton	St John's
n/a	Provided by The Lung Association	Businesses responsibility	Businesses responsibility	No (provided by provincial local Health Region Centre)	City	n/a	Provided by the Ministry of Health	n/a	n/a

14. Are you aware of any measurable impacts for businesses?

Victoria	Vancouver	Calgary	Edmonton	Saskatoon	Regina	Toronto	Ottawa	Fredericton	St John's
n/a	No official study conducted	No	Yes (positive impact)	n/a	No (too early)	No	No	n/a	n/a