



## Committee of the Whole Report For the Meeting of October 8, 2020

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**To:** Committee of the Whole **Date:** October 8, 2020  
**From:** Kerri Moore, Head of Business and Community Relations  
Phillip Bellefontaine, Director of Engineering and Public Works  
**Subject:** Build Back Victoria and Business Recovery from Pandemic Bylaw Review Report

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### RECOMMENDATION

That Council:

1. Extend the Build Back Victoria Program including the pedestrian priority on Government Street until March 31, 2021, to support local businesses with their recovery during the ongoing pandemic and give three readings to the Business Recovery from Pandemic Bylaw Amendment Bylaw (No 1) at the October 8, 2020 daytime council meeting.
2. That the above motion be forwarded to the daytime meeting of October 8, 2020 for ratification.

### EXECUTIVE SUMMARY

At the May 14th, 2020 Council meeting, Council directed staff to identify possibilities to expand options for businesses to continue to operate while meeting new physical distancing protocols during the COVID-19 Pandemic. Council also directed staff to review the 2020 operational and capital plans and report back on other initiatives that could provide some degree of mitigation to individuals, residents and businesses from the impacts of the Pandemic.

A suite of solutions for the Build Back Victoria (BBV) program was endorsed by Council at the June 4, 2020 meeting and Council subsequently adopted the Business Recovery from Pandemic Bylaw. These initiatives allow businesses to temporarily expand their operating capacity into public space (parks, sidewalks, streets, boulevards) in line with public health recommendations for physical distancing, while maintaining the accessibility and liveability of streets and sidewalks.

The intention was to provide practical, expedited solutions, keeping the program “bureaucracy light” to assist local business in their restart and pandemic recovery plans.

The BBV program launched on June 8, 2020 and 112 applications were submitted. Throughout the summer months, more than 100 businesses took advantage of the program to support their operational needs. As of September 24, 2020 there are 77 active permits. The BBV program has been widely successful with applicants across several business sectors and locations throughout the City. The temporary program is currently scheduled to expire on October 31, 2020.

Since June the City has received feedback from the local participating businesses, as well as business and tourism organizations that a continuation of this program is vital to support their recovery, viability, and the local economy while the pandemic and state of emergency continues and restrictions on indoor service remain in effect.

## **PURPOSE**

The purpose of this report is to provide Council with an overview of the successes and lessons learned of the BBV Program, and to recommend the extension of the Program including the pedestrian priority on Government Street and the Business Recovery from Pandemic Bylaw to continue to allow local businesses to use outdoor space as an option to support their recovery during the ongoing COVID-19 pandemic.

## **BACKGROUND**

Council adopted the Recovery from Pandemic Bylaw attached as Appendix A on June 4, 2020. Among other things, that bylaw superseded several bylaw provisions primarily in the Streets and Traffic, Parks Regulation, Street Vendors and Sidewalk Café Regulations Bylaws until October 31, 2020. This Bylaw enabled the Build Back Victoria Program to proceed establishing a temporary permitting system for commercial use of public spaces. At the same time, the City introduced measures to establish pedestrian priority on Government Street.

At the September 17, 2020 meeting, Council passed the following motions:

### **Council Member Motion: Extending the "Open Air Recovery - Support for Restaurants and Cafes in Public Spaces" Program**

#### **Motion:**

1. That Council endorse in principal the extension of the Open-Air Recovery – Support for Restaurants and Cafes in Public Spaces expanded and expedited patio initiative pending receipt of a report from City staff detailing feedback from businesses and residents.
2. That Council request that the Mayor write to the Premier of British Columbia, MLAs representing local ridings, and the BC Liquor and Cannabis Regulation Branch to advocate for an extension of the temporary authorization of licensed service areas.

### **Liquor and Cannabis Regulation Branch Expansion on Service Areas**

The Provincial Government took action to support the province's hospitality, restaurant and food service sector by temporarily authorizing the expansion of service areas, such as patios, to support physical distancing requirements and industry recovery during the COVID-19 pandemic.

To support businesses in their reopening efforts, the Liquor and Cannabis Regulation Branch (LCRB) permitted food-primary, liquor-primary and manufacturer licensees, such as wineries, breweries and distilleries, to apply through a simplified online process to temporarily expand their service areas until Oct. 31, 2020. The Province has recently extended this program until Oct. 31, 2021 due to the ongoing impacts of the pandemic.

The temporary authorizations were focused on expanding a licensed service area's footprint only and do not permit an increase in an establishment's overall occupancy. Licensees must also comply with all local bylaws and were required to receive approval through their local government.

There are no additional fees associated with the temporary expansion applications, and an expedited approval process was implemented for faster processing times. While there are no site inspections from LCRB prior to approval of the permit, inspectors conducted regular compliance inspections.

### Build Back Victoria Program

The Business Recovery from Pandemic Bylaw, and report for BBV Program, were endorsed by Council on June 4, 2020, and the Bylaw was subsequently adopted the same day. The new program leveraged existing City processes and included a suite of initiatives to support local businesses in their safe re-opening and recovery plans, including the use of public space.

A key feature of the BBV Program was the nimble and flexible city permitting process to support economic stability, while maintaining the appropriate controls and regulations to protect public safety, pedestrian accessibility and neighbourhood livability. The program included a commitment to implement, learn and adapt processes while it was in place. The City listened to considerations from business partners, the local business community, and neighbourhoods to develop ambitious, low-barrier solutions that balanced the needs of both residents and businesses. The suite of solutions in BBV launched on June 8, 2020.

Local businesses were able to quickly respond and dozens of new waiting areas, seating, and patios were approved in time for the summer. This new temporary opportunity for businesses was seen as a timely lifeline for many providing increased vibrancy and economic vitality downtown and in a number of the village centres while allowing for necessary physical distancing.

As of September 24, 2020, there are 77 active permits including:

- 4 temporary loading / customer pick-up zones
- 12 mobile vending businesses who operate in designated locations for two-week periods
- 61 businesses operating flex spaces:
  - 14 on Government Street/Bastion Square
  - 4 on Gladstone Avenue
  - 4 on Broad Street
  - 39 locations throughout the rest of the city comprised of on-street parking, parks, boulevard space or areas with extended sidewalk.

Of the 61 businesses using flex space, nearly half (29) have a built patio or parklet structure on city property. Patios or parklets refer to anything semi-permanent with a fence that is permitted to stay out 24hrs a day, rather than be brought in at the end of each business day. Twelve of the 29 locations have deck surfaces. Three new applications were in process at the time of this report. More than half of the permits issued serve liquor.

### Government Street

Temporary pedestrian priority treatments on Government Street are a feature component of the BBV program and any extension to it will include retention of the pedestrian priority measures. This City-initiated change included the creation of extensive new areas for pedestrians, seating and “flex” space by reducing the street from two vehicle lanes down to one. In addition, Gateway treatments were installed at several intersections along with new signage, removal of the traffic signal at View Street, modified traffic signal timings at Fort Street to reduce delays for pedestrians and bicycles crossing, and a “full” closure of Government Street between View Street and Fort Street. These pedestrian priority treatments provided more space for social distancing and enabled the

widespread expansion of patios, sidewalk cafes and other retail activities to further support pedestrian activity and business operations in the context of COVID-19 health and safety protocols.

Over the coming weeks, the City will make further modifications to the current Government Street layout to maintain the additional pedestrian space and priority treatments while accommodating northbound vehicle traffic movements over the winter months. These treatments will also inform the conceptual and detailed streetscape design for creating a permanent “people priority” Government Street anticipated to begin this fall and as identified in the City’s 2019-2022 Strategic Plan.

### Business Recovery from Pandemic Bylaw

To facilitate the BBV program, the City adopted new bylaw provisions to facilitate expedited approvals for outdoor commercial uses. This was accomplished through adoption of an entirely new bylaw – the Business Recovery from Pandemic Bylaw No. 20-072 (the “Bylaw”), specifically for the purpose of facilitating the BBV program. To reflect the intended temporary nature of the BBV program, the Bylaw includes a “sunset clause” - section 12, which is intended to come into force on October 31, 2020, that automatically repeals the Bylaw. Furthermore, all permits granted pursuant to the Bylaw expire on the date the Bylaw is repealed.

An extension of the BBV program requires amendments to the Bylaw. An amendment bylaw, which would extend the BBV program from October 31, 2020 until March 31, 2021 is attached. The amendments include a change to the date when the sunset clause comes into force, as well as changes to reflect the intended temporary extension of the existing permissions under the Bylaw. The bylaw enables the Director of Engineering & Public Works as well as the Director of Parks, Recreation & Facilities to extend permits or approve new permits under the program until this date. New requirements for the program will be outlined in the associated program guidelines and permit application, described below.

### Outdoor Commercial Use on Private Property

Section 8 of the *Business Recovery from Pandemic Bylaw* also delegates “the power to issue a development permit or a heritage alteration permit in all development permit areas and heritage conservation areas if the permit relates to the construction of, addition to, or alteration of a building or other structure to facilitate an outdoor commercial use.” In addition, parking variances associated with an outdoor commercial use on private property are also delegated to staff.

Since the adoption of the Bylaw on June 4, 2020, the City has approved four applications for outdoor commercial use under delegated powers. One application has been recently received and is currently under consideration.

To ensure the future removal of any structures associated with these temporary outdoor commercial operations, the Bylaw requires that the property owner provide the City with “an irrevocable undertaking to remove any construction or alteration authorized by the permit within six months and to restore the property to its current conditions.” Some applications were received shortly after the Bylaw was adopted, in June, and, therefore, the six-month period expires as early as December for some businesses. The proposed extension of the BBV program will require delegation to the Director of Sustainable Planning and Community Development of the authority to extend the six-month period until at least March 31, 2021.

## ISSUES & ANALYSIS

At the September 17, 2020 Committee of the Whole Meeting, Council endorsed in principal the extension of the Open Air Recovery – Support for Restaurants and Cafes in Public Spaces expanded and expedited patio initiative, pending receipt of this report from City Staff.

On September 18, 2020, the Liquor and Cannabis Regulation Branch (LCRB) extended its temporary liquor service expansion program until October 31, 2021, and also approved an extension of March 31, 2021 to the temporary authorization that allows food-primary and liquor-primary licensees to sell and deliver sealed, packaged liquor products alongside the purchase of a meal for off-site consumption. The LCRB intends to extend all existing authorizations, however, they have reached out to local governments to confirm their support for the extension of approved authorizations in their jurisdiction prior to any of these extensions being granted. All licensees with current authorizations and whose local governments support extension will be reissued authorization letters, automatically extending the expiry date of their authorizations, before Oct. 31, 2020. Licensees must continue to comply with all local bylaws.

Should the Business Recovery from Pandemic Bylaw and temporary Build Back Victoria Program be extended, City staff will convey to LCRB, on Councils behalf, that Council supports the extension and process of approval for the temporary LCRB program, which would not require them further referral to local government.

These temporary extensions provide businesses with some relief in a time of financial hardship due to the pandemic, while making it easier for vulnerable British Columbians to continue observing the orders of the provincial health officer.

### Engagement and Feedback

Since the launch of the BBV Program, staff from the Engagement Department have worked closely with Business and Community Relations and Transportation to support the new program. Online access to forms and guidelines, door-to-door outreach to businesses, promotional signage, and social media education and awareness campaigns are some of the ways information has been shared with local businesses and the public.

The Program has had strong uptake since its early June launch, and staff have been responsive to feedback and input from businesses and business groups and making practical adjustments to improve the program success. A three-pronged approach was taken to assess the success and impact to date of the Build Back Victoria initiatives on business economic wellbeing and community livability:

- A survey of participating businesses to gauge the value they place on the program to their economic wellbeing during the ongoing unprecedented economic effects of the pandemic;
- Consultation with local business and tourism groups to gain insights and understand any concerns about the impacts of the programs; and
- A review of public feedback received through direct correspondence about the program to help assess livability issues in the downtown and village business districts.

An engagement summary of the feedback received is attached as Appendix B. The main themes within the feedback received were accessibility standards of patio structures, mobile vending locations, outdoor noise and temporary loss of parking. These concerns have been considered and

staff will be addressing with proposed changes to the Program, should the bylaw be extended. There will be further engagement with the community including businesses and residents to identify and further issues or required adjustments to the Program, and staff will report back by March 31, 2021.

### Proposed changes to BBV Program

Drawing on the lessons learned between June and October 2020 and with recognition of interest from some businesses to continue operating under this program over the winter months, there are some elements of BBV that are proposed to be modified should Council approve the bylaw extension. Proposed changes include, but are not limited to:

- Modifications to the application form and permit terms, including updated insurance requirements which are noted in the new bylaw.
- Introducing mechanisms to ensure flex spaces remain in use during the next five months.
- Adjustments to quantity and locations of mobile vending sites.
- Guidance related to the use of tents in greenspaces or boulevards.
- Requirements and additional guidelines for accessible patios / parklets.
- Processes and requirements that will support “winterization” of patios / parklet structures. These are expected to include requirements for obtaining stamped engineering drawings for structures, as well as direction on matters related to lighting, portable heaters, and rainwater management.

For current permit holders, time limited extensions may be granted under the Authorities described in the bylaw, in order to provide a transition period to achieve compliance with any changes to the program. For any new permit applicant, they will be required to meet all new components of the program.

### **OPTIONS & IMPACTS**

**Option 1: Extend the Build Back Victoria Program including the pedestrian priority on Government Street and the Business Recovery from Pandemic Bylaw until March 31, 2021, continue to engage with the community, including businesses and residents, and report back on a further extension to October 31, 2021. (Recommended):**

This option provides businesses with certainty about the program and allows continued temporary operating options to meet Provincial Health recommendations and orders in efforts to sustain viability and the local economy through the pandemic and recovery, and for staff to report back before March 31, 2021 on feedback received and recommend a further extension to the Bylaw and BBV program. Existing permit holders can receive an extension to their permits and transitional provisions in the Bylaw would provide time for businesses to apply to amend permits.

**Option 2: Extend the Build Back Victoria Program including the pedestrian priority on Government Street and the Business Recovery from Pandemic Bylaw until October 31, 2021.**

This option would have the same impacts and report back date as noted in option 1, but the Business Recovery from Pandemic Bylaw would extend to October 31, 2021.

**Option 3: No extension to the Build Back Victoria Program including the pedestrian priority on Government Street and the of the Business Recovery from Pandemic Bylaw.**

This option would terminate the program.

## Accessibility Impact Statement

Using streets, boulevards and plazas for commerce purposes enabled sidewalks, pathways and walkways to remain free and clear from customers queuing and waiting for services. The City encouraged accessible design of patios / parklets and provided information to applicants on ways to facilitate wheelchair access or include hard surface detectable features for people with vision loss. Staff assess that approximately 90% of patios / parklets have hard surfaces and 65% are wheelchair accessible. Should the program be extended, the City will be initiating new requirements in the BBV Program guidelines for patios and parklets to provide a more consistent and barrier free setting for patrons. Examples include, but are not limited to, cane detectable physical barriers on sidewalk edge, firm, stable and slip-resistant surfaces, contrasting colours of materials and specific dimensions for accessible ramps / furniture / wheelchair manoeuvring space. It will also be recommended that businesses speak with their disabled patrons or staff to see what other accommodations might be suitable for that specific location and business service.

## Impacts to Financial Plan

There are no financial impacts to the Financial Plan to continue the BBV Program to March 31, 2021. Should Council approve Option 1 to report back on a further extension to October 31, 2021, staff will reassess and bring forth any financial impacts at that time.


## CONCLUSIONS

Extending the Business Recovery from Pandemic Bylaw will allow businesses continued alternative operating options through the BBV Program with the ability to meet Provincial Health recommendations and orders. The temporary program implementation, review and feedback presented in this report help to sustain our local economy through the pandemic and recovery while balancing the needs and impacts to City resources, public space and economic vitality.

Respectfully submitted,

  
Quinn Anglin  
Business Ambassador

  
Kerri Moore  
Head of Business & Community Relations

  
Philip Bellefontaine  
Director, Director of Engineering & Public Works



**Report accepted and recommended by the City Manager:** \_\_\_\_\_

**Date:** October 2, 2020

## List of Attachments

- Appendix A - Business Recovery from Pandemic Bylaw Amendment (No.1) and Business Recovery from Pandemic Bylaw – showing proposed amendments
- Appendix B - Business Recovery from Pandemic Bylaw Amendment (No.1) and Business Recovery from Pandemic Bylaw – Clean copy
- Appendix C - Engagement Summary Report