



**Committee of the Whole Report
For the Meeting of October 14, 2021**

To: Committee of the Whole Date: October 7, 2021
From: Philip Bellefontaine, Director, Engineering and Public Works
Subject: Build Back Victoria Program Extension

RECOMMENDATION

That Council receive this report for information and:

- 1) That Council direct the City Solicitor to bring forward amendments to the Business Recovery from Pandemic Bylaw (#20-072) to extend its validity to June 1, 2022 with new applications being accepted until October 31, 2021 only and applications for extensions of existing permits being accepted until November 30, 2021 only.
- 2) Direct the Director of Engineering & Public Works, Director of Sustainable Planning and Community Development, and City Solicitor to bring forward interim changes to the Sidewalk Café Regulation Bylaw (#16-038) to incorporate lessons learned from Build Back Victoria.
- 3) Direct staff to prepare resource considerations to introduce a pilot and establish an on-going Mobile Vending Business Licence and associated permit program as part of the 2023 Financial Planning Process
- 4) That the above motions be forwarded to the daytime meeting of October 14, 2021 for ratification.

EXECUTIVE SUMMARY

1. The Business Recovery from Pandemic Bylaw is set to expire on October 31, 2021 and without an extension to the bylaw, the Build Back Victoria program will come to an end on this date. Staff are recommending an extension to the Bylaw, and the associated Build Back Victoria Program, until June 1, 2022 to be consistent with the Province of BC's pandemic response to support businesses with Temporary Extended Service Areas (TESA) for liquor licenses.
2. Restaurants and cafes who are interested in continuing outdoor dining options after June 01, 2022 may apply for an annual licence for use of public space through the existing Sidewalk Café Regulation Bylaw. Staff are recommending bringing back interim updates to this Bylaw prior to June 2022, to better regulate a number of aspects such as safety, accessibility, and fees. These updates would seek to provide the appropriate balance between recognizing the commercial aspirations of private enterprises to operate in the public right of way while ensuring that the other core public uses of the highway are reflected

and protected.

3. Following the expiry of the Recovery from Pandemic Bylaw, mobile vending such as food trucks will only be able to operate under permitted Special Events, Park Use Permits, or on private property. Staff are recommending that resources to develop a mobile vending pilot and on-going licensing and permitting program are identified as a part of the 2023 Financial Planning Process.
4. The daily time-based pedestrian priority zone on Government Street has been a success through the summer of 2021 with broad support from both businesses and the public. Staff will continue to work with businesses, stakeholders, and the public on the future design and function of Government Street and in the meantime, the current traffic regulations and general layout will be maintained through the Winter of 2021/2022. The time-based closure provides for increased public space through the afternoon and evening when pedestrian volumes are the highest while allowing commercial deliveries and through-traffic each morning.
5. Under a future, separate staff report, staff will be bringing forward bylaw changes to achieve pedestrian priority treatments through travel lane and road closure treatments on Gladstone Avenue and Broad Street as previously directed by Council.

PURPOSE

The purpose of this report seeks Council's approval to extend the Build Back Victoria Program and outdoor commercial uses on private property until June 01, 2022 through the Business Recovery from Pandemic Bylaw. The report also recommends that staff bring forward interim changes to the Sidewalk Café Regulation Bylaw and shares information about plans to continue the Government Street Pedestrian Priority initiatives into 2022 and the status of Broad Street and Gladstone Avenue pedestrian priority changes. This report also seeks direction from Council on the future of mobile vending.

BACKGROUND

The Build Back Victoria (BBV) program and associated Business Recovery from Pandemic Bylaw (#20-072) was introduced in June 2020. The program allowed businesses to temporarily expand their commercial activities into public spaces such as parks, sidewalks, streets, and boulevards to respond to public health requirements associated with COVID-19. The Bylaw also allowed staff to grant delegated development permits to expedite temporary outdoor commercial uses on private property.

In April 2021, staff provided Council with an update on the BBV program and shared outcomes of the public feedback process. More than 780 online surveys were completed and 80% of respondents indicated they were satisfied with the BBV program. Council directed staff to return prior to October 31, 2021, with recommendations to extend the Bylaw in order to support continued economic recovery.

The goal of the BBV Program has been to provide a nimble, affordable, and flexible permitting process to support economic recovery for businesses by allowing them to operate in public spaces across the City. There are currently 87 permits that have been granted for mobile vending, flex zones, loading zones, as well as outdoor patios on both public and private land. At its peak, the Bylaw and associated programs supported approximately 140 Permits across the municipality.

The BBV program was implemented to respond to the COVID-19 pandemic very quickly, offering a “bureaucracy-lite” approach to meet the diverse needs for businesses to operate under changing public health guidance. While this approach was broadly successful and much welcomed by businesses, it also resulted in inconsistencies in areas such as design aesthetics and the amount of public space allocated to commercial use. Further, in the absence of any dedicated budget or staff resources, the program has relied heavily on responsible stewardship by individual business participants. While the majority have embraced this approach, there has been minimal ability for staff to conduct on-going inspections which has resulted in some cases of unauthorized encroachments and expansions of space, inconsistent accessibility features or reliance on public garbage and recycling receptacles for private waste. As it stands, the current bylaw is set to expire on October 31, 2021.

Staff have also prepared regulatory approaches to advance the long-term closure of Broad Street and reduction of a travel lane on Gladstone Avenue as per Council’s direction. The extension of the Business Recovery from Pandemic Bylaw will allow for continued BBV permits on these streets until such time that staff bring forward motions for Council’s consideration before the end of 2021.

ISSUES & ANALYSIS

1. Recovery from Pandemic Recovery Extension:

The Business Recovery from Pandemic Bylaw (#20-072) and associated Build Back Victoria (BBV) program were introduced in June 2020. The program was created to allow businesses to expand their operating capacity quickly and temporarily into public spaces such as parks, sidewalks, streets, and boulevards to respond to public health requirements associated with COVID-19. The BBV program includes flex spaces, mobile vending permits, specialty loading zones, and outdoor patios on public space. There are currently 76 permits granted under the BBV program. The bylaw also gave authorization to staff to delegate development permits to expedite temporary outdoor commercial uses on private property, for which there are currently 11 sites currently granted. The expansion of outdoor patios was supported by the provincial Liquor and Cannabis Regulation Branch’s Temporary Expansion Services Area (TESA) program which granted expedited approval for temporary expansions to licenced service areas during the pandemic.

With the creation of the Recovery from Pandemic Bylaw, several related bylaws (such as the Business License Bylaw, Land Use Procedure Bylaw, Parks Regulation Bylaw, Streets and Traffic Bylaw) were superseded. Fees were not assessed as a part of BBV as businesses were impacted from the ongoing public health orders with, for example, internal occupancies being restricted. Those businesses already regulated under the Sidewalk Café Bylaw have continued to pay occupancy fees throughout the life of the BBV program. Because the program was designed to be temporary and the Community Charter prohibits assistance to businesses, the City will be required to end this program in its current form.

In June 2021 the Province confirmed a final extension of the TESA program until June 1, 2022. On that date, the licence for the service of alcohol in expanded areas will expire. This extension provides licensees time to wind down their expanded service areas or apply to LCRB to make the expansion area permanent.

Under a revised bylaw all BBV permits would expire on the same date of June 1, 2022. No new applications for any program under BBV (or development permits granted by the Director of Planning for extended commercial operations on private land) would be accepted past October 31, 2021. This aligns with LCRB policy that new TESA applications will not be accepted after October 31, 2021.

All current BBV permit holders wishing to operate until June 1, 2022 would be required to re-apply for a BBV extension by November 30, 2021 with requirements for safety, accessibility and corporate stewardship remaining in place.

In September 2021 staff sent an email to all BBV permit holders and a letter to development permit holders to give them advance notice that an extension was to be considered by Council. For restaurants and cafes wanting to continue operating in expanded public areas past June 01, 2022, staff indicated that they would need to apply to the already established Sidewalk Café program.

With respect to the LCRB process, those establishments that would like to retain licenced service areas operating under BBV and TESA approvals beyond June 1, 2022, will also need to apply to LCRB for a permanent change to their liquor license. The LCRB has signaled expectations for high application volumes which may result in longer than usual wait times. This anticipated volume of applications will also have an impact on the city, as many of these applications to LCRB for permanent changes will also be referred to local government for staff review and Council resolutions.

Should Council approve the extension to the bylaw, staff will immediately contact all permit holders to provide them an update and offer guidance on other options beyond June 01, 2022 such as Street Occupancy Permits, Mobile Bicycle Vending Permits, Park Use Permits, Special Event Permits and Sidewalk Café Licences. Staff will support interested businesses through the transition period (October 2021 to June 2022) from BBV into other programs.

2. Interim Updates to Sidewalk Café Regulations Bylaw:

The specific details of approval for individual businesses to operate under BBV will not automatically continue under the Sidewalk Café Bylaw. Some of the existing spaces, structures, and features that are currently seen under BBV may not be approved or will require further modifications under the Sidewalk Café Program.

Although staff worked directly with many businesses, due to the nature and speed of the pandemic response and the high volume of applications, some patios were permitted which utilize unsustainable amounts of space in areas where there are other competing and legitimate demands for curb use, or in areas which may impact longer-term roadway operations. A more considered review of all future sidewalk café applications will assess these broader needs and curb management principles identified within GO Victoria.

Through the BBV program, several important insights and principles have emerged related to outdoor dining and patios, including:

- The expansion of outdoor patios has broadly had a positive impact on the economic well-being of many businesses and on the life of the city;
- A diversity of patio uses and sizes is an important outcome to any program so that businesses, large and small, can participate and enrich the life of the city;
- Fee structures should encourage this broad diversity of participants and reflect the value of both the city land being occupied and the economic value of use of the public space to the individual business; and
- Timeliness and efficiency of the application review and approval process is important, but standards, quality, safety and accessibility should not be compromised.

These principles will inform the development of both interim and future updates to the Sidewalk Café Bylaw and application and review process. As part of the 2022 Financial Plan, Council will be considering supplemental staffing requests to help support these on-going updates and management of the commercial use of public space.

In the absence of current resources to support either an interim or a full update and modernization to the Sidewalk Café Regulation Bylaw (#16-038) staff propose to bring forward interim, shorter-term updates prior to June 2022. These changes focus on areas including accessibility, safety (heating, lighting, and roof structures), and fee equity.

A more comprehensive review of the Bylaw further refining approval processes, design requirements, fee structures and associated rates, and permitted uses would be undertaken in the future subject to available staffing resources. Any future process would also include formal engagement and consultation with businesses, industry associations, and interest groups.

3. Mobile Vending:

In 2016 Council directed staff to establish a pilot program for mobile bicycle vending, which led to the development of a Mobile Bicycle Vending Bylaw and Permit Program in 2017. Unlike other urban cities, Victoria has never had a system to license mobile vendors, such as food trucks, to operate on public roads or plazas. While the City allows mobile vendors to obtain a business license, they can only operate through Special Event permits, under a Park Permit, or on private property.

With the onset of the pandemic, festivals and events were not occurring in Victoria and a mobile vending option under BBV was introduced. Permits were made available for mobile vendors (including food trucks, but also other businesses such as mobile massage therapists or dentists) to operate free of charge in 15 pre-selected locations for two-week periods. There are an estimated 70 - 90 mobile vendors in the Capital Region.

The City continues to receive some interest in allowing such vendors to operate on City streets and plazas, however, is not currently resourced to review regulations, engage the community, or establish new permitting programs.

4. Government Street Winter 2021/22:

Pedestrian-priority treatments introduced in June 2021 were designed to balance the needs of the public and businesses and improve the quality and layout of the street furnishings, while supporting servicing and maintenance requirements. The daily time-based closures and streetscape features between Humboldt Street and View Street have resulted in:

- Expanded pedestrian zones and public seating areas for residents and visitors
- A new venue for special events and street performers
- Continuation of commercial and passenger deliveries
- Available public space for BBV permit holders to access
- Ability for through-traffic to travel on Government Street between 10pm and noon the next day

Staff are planning to retain the daily timed car free areas through the winter of 2021/2022 and are already working with organizers of the Santa Clause Parade to accommodate the parade in the current street layout, along with other seasonal events. Seasonal decorating of Government Street is also planned for the winter months.

One of the major successes of the Government Street Pedestrian Priority initiative was staff's ability to make streetscape and curbside modifications to respond to business and public feedback. These modifications, however, took considerable resources to plan and implement and which impacted

the delivery of other services and programs. Staff will continue to communicate and work with stakeholders on minor adaptations as required over the winter season. Additional planning and assessment is also underway for the future return of cruise ship bus stops on and adjacent to the corridor. A more comprehensive update on the Government Street Refresh Project will be the subject of a future staff report.

5. Broad Street and Gladstone Avenue Pedestrian Priority:

In March 2021, Council passed a motion directing staff to continue the pedestrianization of the 1000 block of Broad Street as part of the continuation of the Build Back Victoria program and to include this zone in future work plans to prioritize pedestrian activity and animation, while ensuring access to loading and accessible parking on and adjacent to the block.

In July 2021, Council directed staff to bring forward processes for facilitating permanent closures of travel lanes and/or full roadways to facilitate increased public space and/or areas for permitted commercial use, beginning with 1300 Block on Gladstone Avenue from Fernwood Street to Stanley Avenue.

Under a separate staff report, anticipated before the end of 2021, staff will be bringing forward bylaw changes to support pedestrian priority treatments through both lane and road closure treatments on both these roads. It should be noted that proposed changes to these streets will not automatically translate to the exclusive commercial use of these public streets. Approved licences through Sidewalk Café Regulation Bylaw or other city permits will still be required.

OPTIONS AND IMPACTS

BBV Program:

Option 1: That Council direct the City Solicitor to bring forward amendments to the Business Recovery from Pandemic Bylaw (#20-072) to extend its validity to June 1, 2022 with new applications being accepted until October 31, 2021 only and applications for extensions of existing permits being accepted until November 30, 2021 only. (RECOMMENDED)

Under this option, the Bylaw will be extended to align with Provincial deadlines and expire on June 01, 2022. This approach provides a transition for BBV permit holders to take advantage of continued access to public space for the next eight months. Businesses can also consider next steps and other available permitting or licensing options available from the city.

Option 2: Allow for the expiration of the Business Recovery from Pandemic Bylaw (#20-072) on October 31, 2021.

Under this option, all BBV permits will conclude on October 31, 2021. Any permits granted by the Director of Sustainable Planning and Community Development for outdoor space on private land will be required to restore the property to current conditions per existing bylaw and Letters of Undertaking.

Interim Updates to Sidewalk Café Regulation Bylaw:

Option 1: Direct the Director of Engineering & Public Works, Director of Sustainable Planning and Community Development, and City Solicitor to bring forward interim changes to the Sidewalk Café Regulation Bylaw (#16-038) to incorporate lessons learned from Build Back Victoria (RECOMMENDED)

Under this option, a number of shorter-term amendments to the Sidewalk Café Bylaw associated with accessibility, safety and establishing fee equity would be brought forward for Council's review and approval prior to June 2022. Should additional staffing be available beyond this timeline, a more comprehensive review and update of this Bylaw would be undertaken.

Option 2: Maintain the Bylaw as is and pending allocation of resources in the 2022 Financial Plan, direct staff to undertake a comprehensive update to the Sidewalk Café Regulation Bylaw (#16-038).

Under this option, no interim changes would be made and instead a comprehensive process to modernize the Sidewalk Café Regulation Bylaw would be undertaken in 2022/2023. This is not recommended as staff anticipate that several BBV permit holders will have an interest in applying for Sidewalk Café Licenses and current requirements are not fully consistent with broader objectives on accessibility, design and safety.

Mobile Vending:

Option 1: Direct staff to prepare resource considerations to introduce a pilot and establish an on-going Mobile Vending Business Licence and associated permit program as part of the 2023 Financial Planning Process (RECOMMENDED)

Under this option, staff would develop resourcing requirements to develop and establish a pilot program and new mobile vending business licencing bylaw for consideration as a part of the 2023 financial planning processes. Should resources be approved as a part of that process, a new regulation could be introduced to support the ongoing operation of mobile vendors such as food trucks in approved locations.

Option 2: Status Quo

Under this option, Food Trucks or other mobile vendors will be limited to special events, park use permits, or operations on private land. Mobile bicycle vending may continue under its current separate bylaw.

Accessibility Statement

The BBV Program includes mandatory accessible design features, such as accessible ramps and patio widths, cane detectable physical barriers on sidewalk edge, contrasting colours of materials, and firm, stable and slip-resistant surfaces. Staff also continue to recommend that businesses speak with their patrons who have a disability and disability service organizations to see what other accommodations might be suitable for their specific location and business service. In the absence of staff resources, the current program is heavily reliant on individual permit holders to comply.

The Government Street pedestrian-priority initiative along with travel lane and road closures on Gladstone Avenue and Broad Street will continue to provide access to outdoor public space while maintaining passenger loading and accessible parking both on and/or adjacent to the corridor.

2019-2022 Strategic Plan

In July 2021, Council passed a motion to "extend and optimize the 'Build Back Victoria' patio program" as a 2021 Strategic Plan action item and "Make the Build Back Victoria patio program permanent" as a 2022 Strategic Plan action item.

Impacts to Financial Plan

The BBV program has been designed, implemented and managed using existing staff and budget. Per Council's updated Strategic Plan, recommendations for new resources to support on-going delivery of programs which deliver streetscape animation and regulate the corporate use of public space will be included for Council's consideration in the 2022 Financial Planning Process. In the interim, management of the program(s) will continue to have a direct impact on the delivery of other service areas and programs.

CONCLUSIONS

The Build Back Victoria Program and Business Recovery from Pandemic Bylaw has played an important role in supporting local economic recovery and contributing to an active and vibrant downtown core and village centres. The extension of the Bylaw and associated BBV program until June 1, 2022 provides opportunity for businesses to continue to use public space and private land and to prepare for the transition to other established city programs.

With lessons learned from BBV, interim changes to the Sidewalk Café Regulation Bylaw will be brought forward in advance of June 2022 associated with areas including accessibility and safety as well as to address equity of fees between permit holders.

The City continues to deliver pedestrian priority initiatives on Government Street, Broad Street and Gladstone Avenue while supporting broader objectives related to economic activity, innovative curb management and expanded public space.

With consideration of new resources as part of the 2023 Financial Planning process, the City could expand mobile vending options into public roads and plazas through a new Bylaw and permitting programs.

Respectfully submitted,

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Report accepted and recommended by the City Manager.