

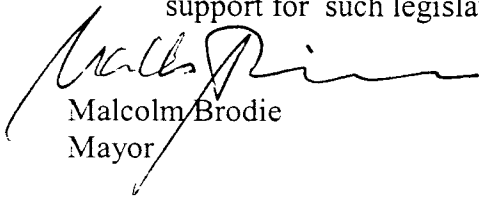


To: Community Safety Committee
From: Malcolm Brodie
 Mayor
Re: **Safe Streets Legislation**

Date: July 8, 2004
File:

Recommendation

1. That Richmond City Council endorse the legislative changes referred to in the report by Mayor Brodie involving the new Safe Streets Act and changes both to the Trespass to Property Act and the Motor Vehicle Act; and
2. That Council endorse the sending of letters to the Premier, MLA Lorne Mayencourt and Richmond MLAs, as well as Mayors in the GVRD cities to demonstrate Richmond's support for such legislation and encourage similar support.


 Malcolm Brodie
 Mayor

Att.

REVIEWED BY TAG	YES <input type="checkbox"/>	NO <input type="checkbox"/>
REVIEWED BY CAO	YES <input type="checkbox"/>	NO <input type="checkbox"/>

Staff Report

Origin

Vancouver MLA Lorne Mayencourt has introduced potential legislation in the Provincial legislature in reaction to the deteriorating situation involving aggressive behaviour on the streets of our cities. Though the problem in Richmond may now be slight compared to some other cities, this problem could well escalate with growth, especially if the RAV line is built. Support from local government to initiate these legislative changes has been solicited in order to provide more effective tools to enhance urban safety.

Analysis

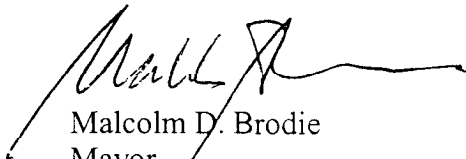
Attached is the Backgrounder in explanation of the new legislation and legislative changes as well as the draft Safe Streets Act and amended Trespass to Property Act. By focussing on enforcement, various levels of government and others must still address the root causes that lead to these urban safety issues e.g. poverty, homelessness, mental illness etc.

Financial Impact

There is no financial impact at this time.

Conclusion

Proposed changes to existing legislation, the *Trespass to Property Act* and *The Motor Vehicle Act*, and the adoption of the new *Safe Streets Act* will provide new tools to deal with aggressive solicitation and unsafe disposal of dangerous paraphernalia. They promise to significantly enhance the safety of our community while the various levels of government and others address the causes of the problems.



Malcolm D. Brodie
Mayor
(4123)

MB:jdj

SAFE STREETS BACKGROUNDER

Safe Streets Act and Trespass to Property Act increase urban safety

The *Safe Streets Act* would deal with aggressive solicitation and unsafe disposal of dangerous paraphernalia and proposes an amendment to the Motor Vehicle Act.

Aggressive Solicitation:

The *Safe Streets Act* would make it an offence to approach with the intention of solicitation:

- while a vehicle is stopped in traffic, including funds in exchange of service;
- while using a public phone;
- while using or leaving an automated teller;
- while getting into a car;
- while waiting for public transit or taxi; or
- while using a public washroom.

During solicitation a person (having responded or not):

- Should be protected by law from threatening behaviour including language, gestures, intimidation, and physical harm.
- Should not have their path obstructed
- Should not be joined, followed or preceded by the solicitor
- Should not be continually solicited after the initial response was negative.

Amendment to the Motor Vehicle Act:

Persons approaching vehicles at intersections and on the street are endangering themselves and others. Persons should be prohibited from approaching a vehicle with the purpose of panhandling, offering, or selling any commodity or service to the occupant, with the exclusion of assistance in the case of emergency.

Dangerous Paraphernalia:

A person is responsible for the unsafe disposal of materials that can endanger the health or safety of any person. These materials include used condoms, broken glass, new or used hypodermic needles or syringes.

The *Trespass to Property Act* would make it an offence if a person does not leave when a business owner, building manager or relevant official requests that person to leave. A business owner or manager may prohibit activities or entrance to a business, building or parkade by written or oral notice, or by means of posting a sign.

- The current *Trespass Act* was designed to protect farmland in rural communities.
- The changes to the Act would empower businesses by defining "occupier" to include business owners, building managers, or relevant school officials.
- An offence is committed when a person does not respond to a request to leave.
- There is specific consideration that customers of a business not be impeded entrance to that business.

As Private Member's Bills, penalties are not spelled out but dealt with under the Offence Act

BILL M 202 -- 2004

SAFE STREETS ACT

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Definitions

1 In this Act:

"**aggressive manner**" means a manner that is likely to cause a reasonable person to be concerned for his or her safety or security;

"**outdoor public place**" means a place outdoors to which the public is ordinarily invited or permitted access and, for greater certainty, includes but is not limited to a sidewalk, street, parking lot, swimming pool, beach, conservation area, park and playground, and school grounds;

"**public transit vehicle**" has the same meaning as in the *Motor Vehicle Act*;

"**roadway**" has the same meaning as in the *Motor Vehicle Act*;

"**solicit**" means to request, in person, the provision of money or another thing of value, regardless of whether consideration is offered or provided in return, using the spoken, written or printed word, a gesture or other means;

2 A person who solicits in an aggressive manner commits an offense.

Solicitation of captive audience prohibited

3 A person commits an offense, who solicits,

(a) a person who is using, waiting to use, or departing from an automated teller machine,

(b) a person who is using or waiting to use a pay telephone or a public toilet facility.

(c) a person who is waiting at a taxi stand or a public transit stop,

(d) a person who is in or on a public transit vehicle,

(e) a person who is in the process of getting in, out of, on or off a vehicle or who is in a parking lot, or

(f) while on a roadway, a person who is in or on a stopped, standing or parked vehicle.

Disposal of certain dangerous things prohibited

4 A person commits an offense, who disposes of any of the following items in an outdoor public place:

- (a) a used condom;
- (b) a new or used hypodermic needle or syringe;
- (c) broken glass

unless the person who disposed of the item establishes that he or she took reasonable precautions to dispose of it in a manner that would not endanger the health or safety of any person.

Amendment of *Motor Vehicle Act*

5 Section 182 of the *Motor Vehicle Act* is amended by adding the following subsections:

- (4) No person, while on the roadway, shall stop, attempt to stop or approach a motor vehicle for the purpose of offering, selling or providing any commodity or service to the driver or any other person in the motor vehicle.
- (5) Subsection (4) does not apply to the offer, sale or provision of towing or repair services or any other commodity or service, in an emergency.

Commencement

6 This Act comes into force by regulation of the Lieutenant Governor in Council.

BILL M 203 – 2004

TRESPASS TO PROPERTY ACT

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Definitions

1 (1) In this Act:

"occupier" includes,

- (a) a person who is in physical possession of premises, or
- (b) a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises,

even if there is more than one occupier of the same premises; ("occupant");

"premises" means lands and structures, or either of them, and includes,

- (a) water;
- (b) ships and vessels;
- (c) trailers and portable structures designed or used for residence, business or shelter;
- (d) trains, railway cars, vehicles and aircraft, except while in operation.

School boards

(2) A school board has all the rights and duties of an occupier in respect of its school sites.

Trespass an offence

2 (1) A person commits an offense who:

- (a) without the express permission of the occupier, the proof of which rests on the defendant,
 - (i) enters on premises when entry is prohibited under this Act, or

(ii) engages in an activity on premises when the activity is prohibited under this Act; or

(b) does not leave the premises immediately after he or she is directed to do so by the occupier of the premises or a person authorized by the occupier,

Colour of right as a defense

(2) It is a defense to a charge under subsection (1) in respect of premises that is land that the person charged reasonably believed that he or she had title to or an interest in the land that entitled him or her to do the act complained of.

Prohibition of entry

3 (1) Entry on premises may be prohibited by notice to that effect and entry is prohibited without any notice on premises, that is enclosed in a manner that indicates the occupier's intention to keep persons off the premises or to keep animals on the premises.

Implied permission to use approach to door

(2) There is a presumption that access for lawful purposes to the door of a building on premises by a means apparently provided and used for the purpose of access is not prohibited.

Limited permission

4 (1) Where notice is given that one or more particular activities are permitted, all other activities and entry for the purpose are prohibited and any additional notice that entry is prohibited or a particular activity is prohibited on the same premises shall be construed to be for greater certainty only.

Limited prohibition

(2) Where entry on premises is not prohibited under section 3 or by notice that one or more particular activities are permitted under subsection (1), and notice is given that a particular activity is prohibited, that activity and entry for the purpose is prohibited and all other activities and entry for the purpose are not prohibited.

Method of giving notice

5 (1) A notice under this Act may be given,

(a) Orally or in writing;

(b) By means of signs posted so that a sign is clearly visible in daylight under normal conditions from the approach to each ordinary point of access to the premises to which it applies.

Substantial compliance

(2) Substantial compliance with this section is sufficient notice.

Form of sign

6 (1) A sign naming an activity or showing a graphic representation of an activity is sufficient for the purpose of giving notice that the activity is permitted.

Idem

(2) A sign naming an activity with an oblique line drawn through the name or showing a graphic representation of an activity with an oblique line drawn through the representation is sufficient for the purpose of giving notice that the activity is prohibited.

Notice applicable to part of premises

7 A notice or permission under this Act may be given in respect of any part of the premises of an occupier.

Arrest without warrant on premises

8 (1) A police officer, or the occupier of premises, or a person authorized by the occupier may arrest without warrant any person he or she believes on reasonable and probable grounds to be on the premises in contravention of section 2.

Delivery to police officer

(2) Where the person who makes an arrest under subsection (1) is not a police officer, he or she shall promptly call for the assistance of a police officer and give the person arrested into the custody of the police officer.

Deemed arrest

(3) A police officer to whom the custody of a person is given under subsection (2) shall be deemed to have arrested the person for the purposes of the provisions of the *Provincial Offences Act* applying to his or her release or continued detention and bail.

Commencement

9 This Act comes into force by regulation of the Lieutenant Governor in Council.