



Memorandum

**TO: RULES & OPEN GOVERNMENT
COMMITTEE**

FROM: Councilmember Sam
Liccardo, Councilmember
Pierluigi Oliverio

**SUBJECT: PROHIBITION OF THE
OBSTRUCTION OF SIDEWALKS
WITHOUT A PERMIT**

DATE: September 25, 2012

APPROVED

DIRECTION

Modify the San Jose Municipal Code to enact an ordinance prohibiting the obstruction of sidewalks without a permit, and penalizing the unpermitted closure of sidewalks with substantial penalties, including but not limited to fines.

DISCUSSION

In the summer of 2011, twelve-year-old Colin Montgomery rode his bike along the sidewalk on Hicks Road, as his grandmother instructed him. When he came upon a construction site of a home renovation project, the contractor had left a temporary gate and a truck blocking the sidewalk. Forced to ride into the street, young Colin was struck by a moving vehicle and severely injured, leaving young Colin a paraplegic for life.

Urbanists often describe a safe, pedestrian-friendly city as one built for people aged 8 to 80. Sidewalks must remain free of any obstruction, especially construction-related materials, particularly for those using strollers, walkers, and wheelchairs.

Although the California Vehicle Code Section 22500 prohibits the parking of vehicles that obstruct sidewalks, it imposes only a \$40 fine for a violation (*See* Cal. Veh. C. Sec. 15.76.080), and it does not apply to other forms of obstruction, such as construction fencing or equipment. To our knowledge, no other California law—beyond the general law of negligence—applies to prevent a circumstance like this.

San Jose Municipal Code does authorize the Department of Transportation to remove obstructions on a sidewalk, but appears to provide no penalties for the creation of that obstruction. (*See* SJMC § 13.24.010). The Code also restricts the display or storage of merchandise or produce on sidewalks, but does not apply to construction tools or materials, such as fences or ladders. (*See* SJMC § 13.20.010). A simple measure could go a long way to ensuring that Colin's fate does not befall another child in San José.