

House File 2359

H-8287

1 Amend House File 2359 as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <Section 1. Section 364.12, subsection 2, paragraphs b, c,
5 and e, Code 2026, are amended to read as follows:

6 *b.* The abutting property owner is responsible for the
7 removal of the natural accumulations of snow and ice from the
8 sidewalks within a reasonable amount of time and may be liable
9 for damages caused by the failure of the abutting property
10 owner to use reasonable care in the removal of the snow or ice.
11 If damages are to be awarded under [this section](#) against the
12 abutting property owner, the claimant has the burden of proving
13 the amount of the damages. To authorize recovery of more than
14 a nominal amount, facts must exist and be shown by the evidence
15 ~~which~~ that afford a reasonable basis for measuring the amount
16 of the claimant's actual damages, and the amount of actual
17 damages shall not be determined by speculation, conjecture,
18 or surmise. All legal or equitable defenses are available to
19 the abutting property owner in an action brought pursuant to
20 this paragraph. The city's general duty under [this subsection](#)
21 does not include a duty to remove natural accumulations of
22 snow or ice from the sidewalks. However, when the city is
23 the abutting property owner it has the specific duty of the
24 abutting property owner set forth in this paragraph. A city
25 shall not assess a fine against an abutting property owner for
26 failure to comply with this paragraph.

27 *c.* The abutting property owner may be required by ordinance
28 to maintain all property outside the lot and property lines and
29 inside the curb lines upon the public streets, except that the
30 property owner shall not be required to remove diseased trees
31 or dead wood on the publicly owned property or right-of-way.
32 The abutting property owner may be liable for damages caused by
33 the failure to use reasonable care in maintaining such property
34 if required by ordinance. A city shall not assess a fine
35 against an abutting property owner for failure to comply with

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(amending this HF 2359 to CONFORM to SF 2146)

1 this paragraph.

2 e. If the abutting property owner does not perform an action
3 required under this subsection within a reasonable time, a
4 city may perform the required action and assess the material
5 costs, direct labor costs, and an administrative fee not to
6 exceed twenty dollars against the abutting property owner
7 for collection in the same manner as a property tax. A city
8 shall not assess a fine against an abutting property owner
9 for failure to comply with paragraph "b" or "c". A city shall
10 not assess costs or fees under this paragraph unless the city
11 has provided the abutting property owner with notice of the
12 violation and an opportunity to appeal or demonstrate hardship
13 pursuant to a process established by ordinance. This ~~power~~
14 paragraph does not relieve the abutting property owner of
15 liability imposed under paragraph "b" or "c".

16 Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate
17 importance, takes effect upon enactment.

18 Sec. 3. RETROACTIVE APPLICABILITY. This Act applies
19 retroactively to June 13, 2024.>

20 2. Title page, line 2, after <cities> by inserting <,
21 prohibiting fines,>

22 3. Title page, line 3, after <date> by inserting <and
23 retroactive applicability>

GUSTOFF of Polk