



## CITY COUNCIL MEMORANDUM

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**TO:** Matthew R. Schmitz, MPA - City Manager

**FROM:** Susi Lampe, IaCMC, IaCFO – Assistant City Manager/City Clerk/Treasurer

**DATE OF MEETING:** August 12, 2024

**ITEM TITLE:** 2024 Legislative Code Amendment - Section 136.04 Sidewalk Liability

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### **BACKGROUND:**

Required code changes based on the recent legislative session. Simmering-Cory Iowa Codification sends an order form each year following the end of the legislative session to make cities aware of necessary code changes.

#### **Iowa Supreme Court Decision in Bankers Trust Company vs. City of Des Moines.**

The Iowa Supreme Court recently released a decision in a case brought by Bankers Trust Company against the City of Des Moines. The decision of the Court in this case ultimately shifts the liability for injuries resulting from poor maintenance of public sidewalks to the City, a shift from the previous interpretation of the Court in a 2014 decision (*Madden v. City of Iowa City*) that said the City had the ability to shift the liability to the adjacent property owner. While we believe a City can continue to make the adjacent property owner responsible for maintenance of the sidewalk, the liability of an accident resulting from non-maintenance is the responsibility of the City alone based on the decision of the Iowa Supreme Court. Cities may want to consult with their City Attorney regarding this change.

### **DISCUSSION:**

I have already submitted the order form to Simmering-Cory Iowa Codification, and they have prepared the ordinance to amend the appropriate code section(s) within Independence's Code of Ordinances. These changes are more administrative changes to the Iowa Code and Independence Code.

### **RESULTS:**

N/A

### **FINANCIAL CONSIDERATION:**

Fees are to be paid to Simmering-Cory Iowa Codification in the amount of \$185.00. There will be additional costs for publication that will be incurred.

### **RECOMMENDATION:**

Staff recommends the Council approve the first reading, waive the second and third readings, and adopt the ordinance change to stay compliant with the Iowa Code. The changes will be effective upon the ordinance summary being published in the newspapers.