

**AN ORDINANCE AMENDING CHAPTER 5 (BUILDING AND BUILDING REGULATIONS),
ARTICLE VI (PROPERTY MAINTENANCE CODE), DIVISION 2 (ADMINISTRATION AND
ENFORCEMENT) OF THE CODE OF THE CITY OF PEORIA, ILLINOIS**

WHEREAS, the City of Peoria is a home rule unit of government pursuant to Article VII, Section 6 of the Constitution of the State of Illinois 1970, and may exercise any power and perform any function pertaining to its government and affairs including the regulation property maintenance for buildings within the city limits; and

WHEREAS, the City of Peoria Municipal Code, as codified in 1957 contained provisions regarding Reckless Criminal Damage by Occupant (Section 5-292) and Willful Criminal Damage by Occupant (Section 5-293); and

WHEREAS, since the codification of these two code sections, the State of Illinois has developed the Illinois Municipal Code and addressed the ability of ordinance violations to include a penalty for incarceration (65 ILCS 5/1-2-1); and

WHEREAS, Section 1-2-1 the Illinois Municipal Code indicates the following:

Sec. 1-2-1. The corporate authorities of each municipality may pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities, with such fines or penalties as may be deemed proper. No fine or penalty, however, except civil penalties provided for failure to make returns or to pay any taxes levied by the municipality shall exceed \$750 and no imprisonment authorized in Section 1-2-9 for failure to pay any fine, penalty or cost shall exceed 6 months for one offense; and

WHEREAS, incarceration is allowed for failure to pay any fine; and

WHEREAS, incarceration shall not be authorized by ordinance violation; and;

WHEREAS, the City Council finds and declares that the ordinance should be amended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS, as follows:

SECTION 1. **Recitals.** The recitals above shall be and are incorporated into this Section 1 as if fully restated herein.

SECTION 2. Chapter 5 (Buildings and Building Regulations), Article VI (Property Maintenance Code), Division 2 (Administration and Enforcement) should be amended by deleting the following stricken words:

Sec. 5-292. Reckless criminal damage by occupant.

Any occupant who recklessly damages or permits damages in excess of \$50.00 to a dwelling or dwelling unit occupied by him and owned by another person shall be fined not less than \$100.00 nor more than \$2,500.00, ~~and may be incarcerated in a penal institution, other than a penitentiary, not more than 30 days, or both.~~ Full restitution by the occupant to the owner prior to trial shall be an affirmative defense to this offense.

Sec. 5-293. Willful criminal damage by occupant.

Any occupant who knowingly damages, permits damage or aids and abets another person in damaging the dwelling or dwelling unit occupied by him and owned by another person, shall be fined not less than \$100.00 nor more than \$2,500.00, ~~and shall be incarcerated in a penal institution other than the penitentiary not less than three days nor more than three months.~~ Full restitution to the owner by the occupant or other person engaged in damaging the property shall be an affirmative defense to this offense.

SECTION 3. **Publication.** The City Clerk is hereby directed and authorized to publish this ordinance in pamphlet form as provided by law.

SECTION 4. **Effective Date.** This ordinance takes effect immediately after its publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS this ____ day of _____ 2021.

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED:

Corporation Counsel