

Chapter 9.24

OFFENSES RELATING TO PROPERTY

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9.24.030 Defacing Library Property.

It shall be unlawful for any person to intentionally, willfully, or maliciously cut, write upon, injure, deface, tear, destroy, or convert to such person's own use, any book, newspaper, plate, picture, engraving, or other thing of value, belonging to the Lincoln Public Library. (Ord. 15622 §3; July 9, 1990: P.C. §9.24.030: Ord. 3489 §21-703, as amended by Ord. 5869; October 4, 1954).

9.24.040 Destruction of Landmarks.

It shall be unlawful for any person to tear up, remove, or destroy any surveyor's stone or stake, marking any street, lot, block, or public ground, or any other public monument of any kind within the limits of the city, except by state or city authority. (Ord. 15622 §4; July 9, 1990: P.C. §9.24.040: Ord. 3489 §21-704, as amended by Ord. 5869; October 4, 1954).

9.24.050 Fire Hydrants.

It shall be unlawful for any person to tamper with, break, injure, or destroy any fire hydrant, or for any person except a duly authorized employee of the city to open any fire hydrant. (Ord. 15622 §5; July 9, 1990: P.C. §9.24.050: Ord. 3489 §21-705, as amended by Ord. 5869; October 4, 1954).

9.24.060 Street Lamps.

It shall be unlawful for any person to break, deface, destroy, or tamper with any street light or any of the appurtenances thereto. Any person found guilty of violating this section shall, in addition to any penalty, be required to reimburse the city for all damages and expense in connection therewith. (Ord. 15622 §6; July 9, 1990: P.C. §9.24.060: Ord. 3489 §21-706, as amended by Ord. 5869; October 4, 1954).

9.24.070 Public Utility Property.

It shall be unlawful for any person to tamper with, break, deface, disconnect, injure, or destroy any meter, fixture, pipe, wire, lamp, pole, post, or any other apparatus or property of any public utility belonging to the city or operating under a franchise or authority from the city. (Ord. 15622 §7; July 9, 1990: P.C. §9.24.070: Ord. 3489 §21-707, as amended by Ord. 5869; October 4, 1954).

9.24.080 Police and Fire Signal Systems.

It shall be unlawful for any person to tamper with, break, deface, injure, or destroy any signal box, fixture, wires, lamps, poles, or posts connected with or which are part of either the Lincoln Police Signal System or any fire alarm system. (Ord. 15622 §8; July 9, 1990: P.C. §9.24.080: Ord. 3489 §21-708, as amended by Ord. 5869; October 4, 1954).

9.24.090 U.S. Mail Boxes.

The Post Office Department of the United States is hereby granted permission to place mail collection boxes on standards near the curb on any street in the city; and it shall be unlawful for any person to deface or in any way injure any such mail boxes. (Ord. 15622 §9; July 9, 1990: P.C. §9.24.090: Ord. 3489 §21-709, as amended by Ord. 5869; October 4, 1954).

9.24.100 Destruction of Property.

It shall be unlawful for any person without proper authority to intentionally or knowingly cut, mark, mar, deface, break, alter the appearance of, damage, tamper with, convert to such person's own use, injure or destroy any real or personal property, public or private, of any description in the City, or to intentionally or knowingly place thereon any mark, word, label, symbol, or figure. (Ord. 17204 §3; July 7, 1997: prior Ord. 15622 §10; July 9, 1990: P.C. §9.24.100: Ord. 3489 §21-710, as amended by Ord. 5869; October 4, 1954).

9.24.105 Penalty for Violation.

Any person who shall violate any of the provisions of Sections 9.24.030, 9.24.040, 9.24.050, 9.24.060, 9.24.070, 9.24.080, 9.24.090, and 9.24.100 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a period not to exceed six months or by a fine of not less than \$250.00 nor more than \$500.00, recoverable with costs, or both such fine and imprisonment. (Ord. 17204 §4; July 7, 1997; prior Ord. 16900 §1; November 20, 1995).

9.24.110 Electrically Charged Fences Prohibited; Evidence.

A. General Prohibition.

It shall be unlawful, except as provided below, for any person, firm, corporation, or other entity owning or controlling any property in the city to construct, maintain, or permit to remain on the property any fence charged with electricity. In any prosecution under this section, testimony that any fence was under the control of the defendant or situated on the defendant's premises and that any person receiving an electric shock by coming in contact with the fence, shall be prima facie evidence that the defendant caused the fence to be charged with a current of electricity and caused or permitted the fence to be connected with a source of electricity.

B. Exception: The use of electrified fencing as part of an alarm system for security purposes is allowed, provided that the use of electrified fencing complies with the following requirements:

1. Permits required.
 - i. Commercial Alarm User Permit. No electrified fencing may be installed at any property for security purposes unless the electrified fence user has applied for and received a commercial alarm user permit from the Chief of Police for a burglar alarm system pursuant to Chapter 5.56 "Emergency Alarm System" of the Lincoln Municipal Code.
 - ii. Alarm Business Permit. No person shall install electrified fencing unless such person has applied for and received a permit from the Chief of Police to engage in an alarm business in the City pursuant to Chapter 5.56 "Emergency Alarm System" of the Lincoln Municipal Code.
2. **General Requirements.** Electrified fencing shall apply with the following requirements:
 - i. **Electrical Standard.** Electrified fences shall be constructed or installed in conformance with specifications set forth in the International Electrotechnical Commission (IEC) Standard No. 60335-2-76, or successor.
 - ii. **Electrification.**
 - a. The energizer for electrified fences must be driven by a commercial storage battery not to exceed 12 volts DC. The storage battery must be charged primarily by a solar panel. However the solar panel may be augmented by a commercial trickle charger.
 - b. The electrified charge produced by the fence upon contact shall not exceed energizer characteristics set forth in paragraph 22.108 and depicted in Figure 102 of the IEC Standard No. 60335-2-76 or successor.

- iii. **Perimeter Fence or Wall.** Electrified fences shall be completely surrounded by a non-electrified fence or wall that is six (6) feet in height, the perimeter fence or wall shall have no barbed, concertina, or similar wire attached. Any barbed, concertina, or similar wire on existing fences or walls shall be removed prior to the installation of the electrified fence.
- iv. **Setback.**
 - a. Any opening in the perimeter fence less than or equal to three (3) inches shall require a minimum 12-inch setback from the electrified fence.
 - b. Any opening in the perimeter fence greater than three (3) inches shall require either a screening buffer permanently installed to the perimeter fence decreasing the opening to 3-inches or less or a minimum 36-inch setback from the electrified fence.
- v. **Height.** Notwithstanding the height limitations for fences in Section 27.72.140 of the Lincoln Municipal Code, electrified fencing may be erected to a height not to exceed 10 feet.
- vi. **Warning Signs.** Electrified fences shall be clearly identified with readily visible 12-inch by 18-inch warning signs on both the inside and outside of the fence. The signs shall read “Warning-Electric Fence” in English with international symbols at intervals of not greater than 50 feet.
- vii. **Emergency Access.** A “Knox Box” or other similar approved device approved by the City’s Bureau of Fire Prevention (“Bureau”) keyed to a master key provided to and controlled by the Lincoln Fire and Rescue Department shall be ordered through the Bureau and installed for emergency access by the Lincoln Police Department and the Lincoln Fire and Rescue Department. A means to disconnect electrical power to the fence shall be readily available to the Lincoln Police Department and the Lincoln Fire and Rescue Department. Disconnect switches and controls shall be in an accessible location on the property. Approved signs stating the identification of such switches/controls in addition to informational instructions as to how to disable the electrical system shall be installed to the satisfaction of the Fire Chief. In the event that access by personnel of the Lincoln Police Department and/or the Lincoln Fire and Rescue Department to a property where a permitted electrified fence has been installed and is operating is required due to an emergency or urgent circumstances, and the Knox Box or other similar approved device above is absent or non-functional, and an owner, manager, employee, custodian, or any other person with control over the property is not present to disable the electrified fence, such personnel shall be authorized to disable the electrified fence in order to gain access to the property. As a condition of permit issuance, all applicants issued permits to install

or use an electrified fence as provided in this chapter will agree to waive any and all claims for damages to the electrified fence against the City of Lincoln and/or its personnel under such circumstances.

- viii. **Locational Restrictions.** Electrified fences shall be only allowed in the I-1 Industrial District and located no closer than (A) 100 feet from the property line of any premises used in whole or part for a residential use, daycare facility, school, or park, or (B) 100 feet from a R-1 through R-8 Residential District or the P - Public Use District. (Ord. 20352 §1; July 18, 2016: prior Ord. 15622 §11; July 9, 1990: P.C. §9.26.010: Ord. 8260 §1; December 2, 1963).

9.24.120 Receiving Stolen Goods.

It shall be unlawful for any person to receive, retain, conceal, buy, or dispose of stolen movable property of another, of any kind whatsoever, valued at less than \$300.00, knowing that it has been stolen, or believing that it has been stolen, unless the property is received, retained, concealed, bought, or disposed of with the intention of restoring it to the owner. (Ord. 16757 §1; April 3, 1995: prior Ord. 15622 §12; July 9, 1990: P.C. §9.32.030: Ord. 3489 §21-303; July 6, 1936).

9.24.130 Taking Possession of Property Without Consent of Owner.

It shall be unlawful for any person to willfully and knowingly move into and take possession of any dwelling house, outhouse, or other building, the property of another without the consent of the owner or agent thereof. (Ord. 15622 §13; July 9, 1990: P.C. §9.32.040: Ord. 3489 §21-508; July 6, 1936).

9.24.140 Larceny; Defined.

(a) It shall be unlawful for any person to steal any money or goods or chattels of any kind whatever, of less value than \$300.00, the property of another, or to steal or maliciously destroy any money, promissory note, bill of exchange, order, draft, receipt, warrant, check, or bond given for the payment of money or receipt acknowledging the receipt of money or other property of less value than \$300.00.

(b) The word "money" as used in subsection (a) of this section, shall be construed to include bank bills or notes, United States treasury notes, or other bills, bonds, or notes issued by lawful authority and intended to pass and circulate as money. (Ord. 15622 §14; July 9, 1990: P.C. §9.32.060: Ord. 11453 §1; September 8, 1975: prior Ord. 10694 §1; February 20, 1973).

9.24.150 Shoplifting Prohibited; Definitions.

- (a) When used in this section, the following terms shall have the following meanings:
- (1) Store shall mean any store or mercantile establishment in which merchandise is displayed for sale in such a manner as to be readily accessible to persons shopping therein.
 - (2) Merchandise shall include goods, wares, and chattels.

(3) Owner shall include the owner of merchandise or any other person, firm, or corporation having the right to offer merchandise for sale as an agent, consignee, or in any other capacity under any agreement with the owner of such merchandise.

(4) Value shall mean the retail sale price of merchandise offered for sale.

(b) It shall be unlawful for any person to take possession of any merchandise offered for sale by any store with the intention of converting the same to the use of such person without paying to the owner the value thereof.

(c) It shall be unlawful for any person to conceal about his or her person or otherwise any merchandise offered for sale by any store with the intention of converting the same to the use of such person without paying to the owner the value thereof.

(d) It shall be unlawful for any person to alter, remove, exchange, or deface any label, price tag, price marking, or similar device upon any merchandise offered for sale by any store with the intention of converting said merchandise to the use of such person without paying to the owner the full value thereof.

(e) It shall be unlawful for any person to transfer any merchandise offered for sale by any store from the container, shelf, or space in or on which the same shall be displayed to any other container with the intention of converting the same to the use of such person without paying to the owner the full value thereof. (Ord. 15622 §15; July 9, 1990: P.C. §9.32.070: Ord. 10927 §1; October 22, 1973).

9.24.160 Theft of Services.

(a) For purposes of this section, telecommunications service shall include telephone service and cable television service, and device shall include instrument, apparatus, equipment, and plans or instructions for making or assembling the same.

(b) It shall be unlawful for any person to obtain services valued at less than \$300.00 which he or she knows are available only for compensation, by deception or threat, or by false token or other means to avoid payment for the service. Services include labor, professional services, electric service, telecommunications service, or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions, and use of vehicles or other movable property. When compensation for service is ordinarily paid immediately upon the rendering of such service, as in the case of hotels and restaurants, refusal to pay or absconding without payment or offer to pay gives rise to a presumption that the service was obtained by deception as to intention to pay.

(c) It shall be unlawful for any person having control over the disposition of services of others to which he is not entitled, to divert such services to his or her own benefit or to the benefit of another not entitled thereto.

(d) It shall be unlawful for any person to knowingly make or possess any device designed to or commonly used to obtain telecommunications service fraudulently from a licensed cable television franchisee with the intent to use such device in the commission of an offense described in subsection (b) of this section.

(e) It shall be unlawful for any person to knowingly tamper with, interfere with, or connect to any cables, wires, converters, or other devices used for the distribution of telecommunications services by any mechanical, electrical, acoustical, or other means without authority from the operator of the service with the intent of obtaining telecommunications service fraudulently.

(f) It shall be unlawful for any person to sell, give, transfer, or offer or advertise for sale a device which such person knows or should know is intended to be used for the purpose of obtaining telecommunications service fraudulently. (Ord. 15622 §16; July 9, 1990: P.C. §9.32.080: Ord. 12984 §1; September 2, 1980).

9.24.170 Depositing Refuse Matter on Premises of Another.

It shall be unlawful for any person within the city to willfully, maliciously, or negligently, place or throw, or cause to be placed or thrown, upon the premises of another, any filth, refuse matter, or other thing, to the annoyance of the owner or occupant thereof. (Ord. 15622 §17; July 9, 1990: P.C. §9.40.010: Ord. 3489 §21-801; July 6, 1936).

9.24.180 Obstructing Water Course.

It shall be unlawful for any person to throw, deposit, or place any refuse, debris, brush, garbage, or any other article of any description in any stream, channel thereof, water course, conduit or water way, natural or artificial, within the city limits, or to in any way stop or obstruct the free flow or passage of water in or through the same, or to throw, deposit, or place any refuse, debris, brush, garbage or any other article of any description upon the banks of or near any stream, channel thereof, water course, conduit or water way in the city, so that the same may in any manner be washed or deposited in said stream, the channel thereof, water course, conduit or water way, and obstruct the free flow or passage of water therein. (Ord. 15622 §18; July 9, 1990: P.C. §9.40.030: Ord. 3489 §21-803; July 6, 1936).

9.24.185 Unauthorized Entry into Motor Vehicle.

It shall be unlawful for any person to enter a motor vehicle belonging to another without the permission of the owner or other person in lawful possession thereof. This section shall not apply to any person entering a motor vehicle for a lawful purpose. (Ord. 16686 §1; October 17, 1994).

9.24.190 Loitering and Trespass; Windowpeeping as Evidence.

It shall be unlawful for anyone to loiter about or trespass upon the property of another without the consent of the owner or tenant thereof; provided, that windowpeeping in the windows of a private dwelling house, apartment, or residence of another after sunset shall be prima facie evidence of trespass. (Ord. 15622 §19; July 9, 1990: P.C. §9.52.220: Ord. 3489 §21-222; July 6, 1936).

9.24.195 Occupying Business Parking Lot After Business Hours.

It shall be unlawful for any person to intentionally or knowingly occupy, or be present in or upon, a business parking lot when the business establishment served by said parking lot is not open to the public, and when appropriate signs are posted in or upon said parking lot prohibiting such occupancy or presence, and bearing, at a minimum, the words NO TRESPASSING.

Any person violating any provision of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not to exceed \$100.00, recoverable with costs. (Ord. 16196 §1; August 24, 1992).

9.24.200 Barbed Wire Fences.

It shall be unlawful for any person to place or maintain any fence or barrier consisting of what is called "barbed wire," or of which barbed wire is a part, around or on such person's property or premises within the city limits; provided, however, that where any fence or any part thereof is not nearer than one foot to any public way and is more than five feet in height, barbed wire may be used in that portion of the fence which is more than five feet above the surface of the ground upon which such fence is located, but provided further that no part of such barbed wire be nearer than one foot from such public way. (Ord. 15622 §20; July 9, 1990: P.C. §9.68.230: Ord. 3489 §21-901, as amended by Ord. 4506; September 20, 1948).

9.24.210 Flowerpots on Windowsills and Other Projections.

It shall be unlawful for any person to place or keep on any windowsill, railing of balcony, top of porch, or any other projection from any house or other building in the city, any earthen flowerpots, wooden box, or other article or thing whatsoever for the cultivation or retention of flowers, shrubs, vines, or any other article or thing whatever unless every such flowerpot, box, or other article is securely and firmly fastened or protected by iron railings, so fastened as to render it impossible for any such pot, box, or other article to fall into the street. (Ord. 15622 §21; July 9, 1990: P.C. §9.68.240: Ord. 3489 §21-902; July 6, 1936).

9.24.220 Unlawful Sale to Pawnbroker by Person Convicted of Theft.

It shall be unlawful for any person who has been twice convicted of any theft offense within the last five years under the provisions of the Nebraska Revised Statutes or the Lincoln Municipal Code to pawn any property or to sell property to a pawnbroker or second-hand jewelry dealer within the City of Lincoln. Convictions for the following Nebraska State Statute and Lincoln Municipal Code violations shall constitute theft offenses for the purposes of this ordinance: Violations of *Neb. Rev. Stat.* §28- 507, Burglary; *Neb. Rev. Stat.* § 28-511, Theft by unlawful taking; *Neb. Rev. Stat.* § 28-511.01, Theft by shoplifting; *Neb. Rev. Stat.* § 28-511.02, Theft of rented or leased motor vehicle; *Neb. Rev. Stat.* § 28-512, Theft by deception; *Neb. Rev. Stat.* § 28-513, Theft by Extortion; *Neb. Rev. Stat.* § 28-514, Theft of property lost, mislaid, or delivered by mistake; *Neb. Rev. Stat.* § 28-515, Theft of services; *Neb. Rev. Stat.* § 28-516, Unauthorized use of a propelled vehicle; *Neb. Rev. Stat.* § 28-517, Theft by receiving stolen property; Lincoln Municipal Code §9.24.120, Receiving stolen property; Lincoln Municipal Code §9.24.130, Taking possession of property without consent of owner; Lincoln Municipal Code §9.24.140, Larceny; Lincoln Municipal Code §9.24.150, Shoplifting; Lincoln Municipal Code §9.24.160, Theft of services; and Lincoln Municipal Code § 9.24.185, Unauthorized entry into motor vehicle.

It shall further be unlawful for any pawnbroker or second-hand jewelry dealer to knowingly accept, pawn, or purchase property from such a person. (Ord. 18157 §1; April 7, 2003).