



# Nebraska Laws and Ordinances:

## Nebraska Constitution and Laws Related to Self-Defense

*Laws correct as of 10/03/2003*

**Includes list of relevant City of Lincoln Ordinances**

### **SECTIONS:**

[Nebraska Constitution Statement of Rights](#)

[NE Statute 28-1409: Use of Force in Self-Protection](#)

[NE Statute 28-1410: Use of Force for Protection of Other Persons](#)

[NE Statute 28-1202: Carrying Concealed Weapon; Penalty; Affirmative Defense](#)

[NE Statute 28-904: Resisting Arrest; Penalty; Affirmative Defense](#)

[City of Lincoln Ordinances Chapter 9.08: Offenses By or Against Public Officers and Government](#)

[City of Lincoln Ordinances Chapter 9.12: Offenses Against the Person](#)

[City of Lincoln Ordinances Chapter 9.36: Weapons](#)

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### **State of Nebraska Constitution, Article CI-1 Statement of rights.**

All persons are by nature free and independent, and have certain inherent and inalienable rights; among these are life, liberty, the pursuit of happiness, and the right to keep and bear arms for security or defense of self, family, home, and others, and for lawful common defense, hunting, recreational use, and all other lawful purposes, and such rights shall not be denied or infringed by the state or any subdivision thereof. To secure these rights, and the protection of property, governments are instituted among people, deriving their just powers from the consent of the governed.

#### **Source:**

Neb. Const. art. I, sec. 1 (1875);  
Amended 1988, Initiative Measure No. 403.

**Annotations:**

- 1. Personal rights**
- 2. Property rights**
- 3. Taxation**
- 4. Right to bear arms**
- 5. Miscellaneous**

**1. Personal rights**

Section 29-2203 does not violate either the U.S. or Nebraska Constitution. *State v. Ryan*, 233 Neb. 74, 444 N.W.2d 610 (1989).

Statute providing it shall be unlawful just to be in place where controlled substance is being used illegally is unconstitutionally vague and overbroad. *State v. Adkins*, 196 Neb. 76, 241 N.W.2d 655 (1976).

Requirement of continuous residency of four months independent of school attendance to establish residence for tuition purposes does not violate this section. *Thompson v. Board of Regents of University of Nebraska*, 187 Neb. 252, 188 N.W.2d 840 (1971).

Failure to appoint counsel to represent a defendant in a criminal case upon appeal did not violate this section. *State v. Dabney*, 181 Neb. 263, 147 N.W.2d 768 (1967).

Sexual psychopath law does not deny equal protection of the laws. *State v. Madary*, 178 Neb. 383, 133 N.W.2d 583 (1965).

Statute prohibiting state and federal officers and employees from being delegates to county, district, and state political conventions did not violate this section. *State ex rel. Baldwin v. Strain*, 152 Neb. 763, 42 N.W.2d 796 (1950).

Habitual criminal law, defining habitual criminal and providing punishment therefor, is not violative of this section. *Rains v. State*, 142 Neb. 284, 5 N.W.2d 887 (1942).

The provision of an agreement between a labor organization and an employer that when a female employee, member of the organization, marries, her employment shall terminate, does not violate constitutional rights of employee. *Brisbin v. E. L. Oliver Lodge No. 335*, 134 Neb. 517, 279 N.W. 277 (1938).

The right to engage in the sale of intoxicating liquors is not an inherent and inalienable right which the state is forbidden to abridge. *Griffin v. Gass*, 133 Neb. 56, 274 N.W. 193 (1937).

Statute forbidding possession of liquor elsewhere than in private dwelling is not void as discriminatory. *Fitch v. State*, 102 Neb. 361, 167 N.W. 417 (1918).

"Sunday Law" is not repugnant to the Constitution. *In re Caldwell*, 82 Neb. 544, 118 N.W. 133 (1908).

A statute regulating and limiting the hours of employment of females in manufacturing, mechanical and mercantile establishments, hotels and restaurants is not repugnant to the provisions of the Constitution. *Wenham v. State*, 65 Neb. 394, 91 N.W. 421 (1902), 58 L.R.A. 825 (1902).

**2. Property rights**

Statute requiring fencing of right-of-way by railroads did not operate to deprive railroad of equal rights. *Linenbrink v. Chicago & N.W. Ry. Co.*, 177 Neb. 838, 131 N.W.2d 417 (1964).

Every citizen has the right to acquire property and sell it at such price as he can obtain in fair barter. *Elder v. Doerr*, 175 Neb. 483, 122 N.W.2d 528 (1963).

A private employment agency is not a business in which the

public has such an interest that price fixing may properly be included as a method of regulation. *Boomer v. Olsen*, 143 Neb. 579, 10 N.W.2d 507 (1943).

Act regulating sale of motor vehicles for purpose of preventing fraud is not a violation of constitutional rights. *Nelsen v. Tilley*, 137 Neb. 327, 289 N.W. 388 (1939), 126 A.L.R. 729 (1939).

The right to acquire property and dispose of it in such innocent manner as he pleases for such price as he can obtain in fair barter is guaranteed to every person. *State ex rel. English v. Ruback*, 135 Neb. 335, 281 N.W. 607 (1938).

Property used for "religious purpose" is within the spirit of Constitution exempting it from taxation. *Ancient & Accepted Scottish Rite v. Board of County Commissioners*, 122 Neb. 586, 241 N.W. 93 (1932), 81 A.L.R. 1166 (1932).

City ordinance requiring Sunday closing of places of business for sale or exchange of motor vehicles is valid under police power, and not discriminatory under this article. *Stewart Motor Co. v. City of Omaha*, 120 Neb. 776, 235 N.W. 332 (1931).

Statute requiring railroad company to fence right-of-way is constitutional. *Middaugh v. Chicago & N.W. Ry. Co.*, 114 Neb. 438, 208 N.W. 139 (1926).

Law prohibiting merchants from giving trading stamps is unconstitutional. *State ex rel. Hartigan v. Sperry & Hutchinson Co.*, 94 Neb. 785, 144 N.W. 795 (1913), 49 L.R.A.N.S. 1123 (1913).

### **3. Taxation**

Ordinance of city of Lincoln imposing occupation tax on taxicabs was not objectionable as unjust, discriminatory and denial of equal protection of the laws, though no tax was imposed on trucks carrying freight. *Richter v. City of Lincoln*, 136 Neb. 289, 285 N.W. 593 (1939).

Gross premium tax on foreign insurance companies is an excise tax on privilege of doing business in Nebraska, and does not violate equal rights clause of Constitution. *State ex re. Smrha v. General American Life Ins. Co.*, 132 Neb. 520, 272 N.W. 555 (1937).

### **4. Right to bear arms**

The "Right to Bear Arms" amendment to this provision does not abolish the death penalty in Nebraska. *Anderson v. Gunter*, 235 Neb. 560, 456 N.W.2d 286 (1990).

Section 28-1203(1) is not vitiated by the "Right to Bear Arms" amendment of 1988, is a valid exercise of the State's police power in reasonable regulation of certain firearms, and does not contravene this provision. *State v. LaChapelle*, 234 Neb. 458, 451 N.W.2d 689 (1990).

The constitutional right to keep and bear arms is subject to reasonable regulation by statute if the statute does not frustrate the guarantee of the constitutional provision. *State v. Comeau*, 233 Neb. 907, 448 N.W.2d 595 (1989).

### **5. Miscellaneous**

Section 39-6,193, imposing vicarious liability on owners-lessors of trucks for damages by lessees and operators of the leased trucks, is constitutional. *Bridgeford v. U-Haul Co.*, 195 Neb. 308, 238 N.W.2d 443 (1976).

Act establishing vocational technical schools does not violate this section. *Campbell v. Area Vocational Technical School No. 2*, 183 Neb. 318, 159 N.W.2d 817 (1968).

Statute creating Nebraska Power Review Board did not violate this section. *City of Auburn v. Eastern Nebraska Public Power Dist.*, 179 Neb. 439, 138 N.W.2d 629 (1965).

Zoning ordinance of city of Omaha did not violate this section. *Wolf v. City of Omaha*, 177 Neb. 545, 129 N.W.2d 501 (1964).

Sunday closing law violated this section and was unconstitutional in its entirety. *Terry Carpenter, Inc. v. Wood*, 177 Neb. 515, 129 N.W.2d 475 (1964).

Sunday closing ordinance of city of first class violated this section. *Skag-Way Department Stores, Inc. v. City of Grand Island*, 176 Neb. 169, 125 N.W.2d 529 (1964).

Zoning act and ordinance sustained as constitutional. *Schlientz v. City of North Platte*, 172 Neb. 477, 110 N.W.2d 58 (1961).

In the interpretation of the Bill of Rights, the court will consider its history, the development of the evil sought to be restrained, the established laws, usages and customs at time of its adoption, and scope of the remedy its terms imply. *First Trust Co. of Lincoln v. Smith*, 134 Neb. 84, 277 N.W. 762 (1938).

Statute arbitrarily dividing county into commissioner districts, without regard to population, is unconstitutional. *State ex re. Harte v. Moorhead*, 99 Neb. 527, 156 N.W. 1067 (1916).

The constitutional right to life, liberty and the pursuit of happiness is not infringed by statutes prohibiting deceit or fraud. *In re Barnes*, 83 Neb. 443, 119 N.W. 662 (1909).

Bill of rights is not enumeration of all powers reserved to people. *State ex rel. Smyth, Attorney General v. Moores*, 55 Neb. 480, 76 N.W. 175 (1898), 41 L.R.A. 624 (1898).

Law of land and due process do not mean merely legislative enactments. *The Atchison & Nebraska R.R. Co. v. Baty*, 6 Neb. 37, 29 Am. R. 356 (1877).

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### **Nebraska Statute 28-1409**

#### **Use of force in self-protection.**

(1) Subject to the provisions of this section and of section 28-1414, the use of force upon or toward another person is justifiable when the actor believes that such force is immediately necessary for the purpose of protecting himself against the use of unlawful force by such other person on the present occasion.

(2) The use of such force is not justifiable under this section to resist an arrest which the actor knows is being made by a peace officer, although the arrest is unlawful.

(3) The use of such force is not justifiable under this section to resist force used by the occupier or possessor of property or by another person on his behalf, where the actor knows that the person using the force is doing so under a claim of right to protect the property, except that this limitation shall not apply if:

(a) The actor is a public officer acting in the performance of his duties or a person lawfully assisting him therein or a person making or assisting in a lawful arrest;

(b) The actor has been unlawfully dispossessed of the

property and is making a reentry or recapture justified by section 28-1411; or

(c) The actor believes that such force is necessary to protect himself against death or serious bodily harm.

(4) The use of deadly force shall not be justifiable under this section unless the actor believes that such force is necessary to protect himself against death, serious bodily harm, kidnapping or sexual intercourse compelled by force or threat, nor is it justifiable if:

(a) The actor, with the purpose of causing death or serious bodily harm, provoked the use of force against himself in the same encounter; or

(b) The actor knows that he can avoid the necessity of using such force with complete safety by retreating or by surrendering possession of a thing to a person asserting a claim of right thereto or by complying with a demand that he abstain from any action which he has no duty to take, except that:

(i) The actor shall not be obliged to retreat from his dwelling or place of work, unless he was the initial aggressor or is assailed in his place of work by another person whose place of work the actor knows it to be; and

(ii) A public officer justified in using force in the performance of his duties or a person justified in using force in his assistance or a person justified in using force in making an arrest or preventing an escape shall not be obliged to desist from efforts to perform such duty, effect such arrest or prevent such escape because of resistance or threatened resistance by or on behalf of the person against whom such action is directed.

(5) Except as required by subsections (3) and (4) of this section, a person employing protective force may estimate the necessity thereof under the circumstances as he believes them to be when the force is used, without retreating, surrendering possession, doing any other act which he has no legal duty to do, or abstaining from any lawful action.

(6) The justification afforded by this section extends to the use of confinement as protective force only if the actor takes all reasonable measures to terminate the confinement as soon as he knows that he safely can do so, unless the person confined has been arrested on a charge of crime.

**Source:**

Laws 1972, LB 895, § 4; R.R.S.1943, § 28-836, (1975).

**Annotations:**

1. Elements
2. Evidence

**3. Jury instructions****4. Lawful force****5. Unlawful force****1. Elements**

A defendant asserting self-defense as justification for the use of force must have a reasonable and good faith belief in the necessity of such force.

State v. Thompson, 244 Neb. 375, 507 N.W.2d 253 (1993).

In order for the self-defense justification to be applicable, (1) the belief that force is necessary must be reasonable and in good faith, (2) the force must be immediately necessary, and (3) the force used must be justified under the circumstances. State v. Graham, 234 Neb. 275, 450 N.W.2d 673 (1990).

The use of deadly force shall not be justifiable unless the actor believes such force is necessary to protect himself against death or serious bodily harm, nor is it justifiable if the actor, with the purpose of causing death or serious bodily harm, provoked the use of force against himself in the same encounter or the actor knows that he can not avoid the necessity of using such force with complete safety by retreating. State v. Menser, 222 Neb. 36, 382 N.W.2d 18 (1986).

**2. Evidence**

Under subsection (5) of this section, evidence of victims' violent or aggressive behavior which occurred 4 months after defendant shot them was not relevant to the circumstances as defendant believed them to be the night he shot them.

State v. Allison, 238 Neb. 142, 469 N.W.2d 360 (1991).

**3. Jury instructions**

Jury instruction requiring, as an element of self-defense, that "before using deadly force the defendant either tried to get away or did not try because he reasonably did not believe he could do so in complete safety," was not erroneous under this section. State v. Williams, 239 Neb. 985, 480 N.W.2d 390 (1992).

A defendant is entitled to an instruction on self-defense if there is any evidence to support it; this is true even if the defendant does not testify.

State v. Graham, 234 Neb. 275, 450 N.W.2d 673 (1990).

A defendant is not entitled to a self-defense jury instruction when he could have safely retreated. State v. Kuntzelman, 215 Neb. 115, 337 N.W.2d 414 (1983).

Defendant is entitled to have jury instructed on his theory of self-defense if there is any evidence to support it. State v. Duis, 207 Neb. 851, 301 N.W.2d 587 (1981).

**4. Lawful force**

This section provides no defense when a defendant uses force against another's lawful force. State v. Brown, 235 Neb. 374, 455 N.W.2d 547 (1990).

Use of force was prohibited where person being arrested knew that arrest was being made by a peace officer. State v. Moore, 226 Neb. 347, 411 N.W.2d 345 (1987).

**5. Unlawful force**

Record did not establish that victim used "unlawful force" against the defendant. State v. Sutton, 231 Neb. 30, 434 N.W.2d 689 (1989).

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### **Nebraska Statute 28-1410**

#### **Use of force for protection of other persons.**

(1) Subject to the provisions of this section and of section 28-1414, the use of force upon or toward the person of another is justifiable to protect a third person when:

(a) The actor would be justified under section 28-1409 in using such force to protect himself against the injury he believes to be threatened to the person whom he seeks to protect;

(b) Under the circumstances as the actor believes them to be, the person whom he seeks to protect would be justified in using such protective force; and

(c) The actor believes that his intervention is necessary for the protection of such other person.

(2) Notwithstanding subsection (1) of this section:

(a) When the actor would be obliged under section 28-1409 to retreat, to surrender the possession of a thing or to comply with a demand before using force in self-protection, he shall not be obliged to do so before using force for the protection of another person, unless he knows that he can thereby secure the complete safety of such other person;

(b) When the person whom the actor seeks to protect would be obliged under section 28-1409 to retreat, to surrender the possession of a thing or to comply with a demand if he knew that he could obtain complete safety by so doing, the actor is obliged to try to cause him to do so before using force in his protection if the actor knows that he can obtain complete safety in that way; and

(c) Neither the actor nor the person whom he seeks to protect is obliged to retreat when in the other's dwelling or place of work to any greater extent than in his own.

#### **Source:**

Laws 1972, LB 895, § 5; R.R.S.1943, § 28-837, (1975).

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### **Nebraska Statute 28-1202**

#### **Carrying concealed weapon; penalty; affirmative defense.**

(1) Except as provided in subsection (2) of this section, any person who carries a weapon or weapons concealed on or about his or her person such as a revolver, pistol, bowie knife, dirk or knife with a dirk blade attachment, brass or iron knuckles, or any other deadly weapon commits the offense of carrying a concealed weapon.

(2) It shall be an affirmative defense that the defendant was engaged in any lawful business, calling, or employment at the time he or she was carrying any weapon or weapons and the circumstances in which such person was placed at the time were such as to justify a prudent person in carrying the weapon or weapons for the defense of his or her person, property, or family.

(3) Carrying a concealed weapon is a Class I misdemeanor.

(4) In the case of a second or subsequent conviction under this section, carrying a concealed weapon is a Class IV felony.

**Source:**

Laws 1977, LB 38, § 234; Laws 1984, LB 1095, § 1.

**Annotations:**

In order to be a deadly weapon per se under subsection (1) of this section, the weapon must be one specifically enumerated in the statute. Whether an object or weapon not specifically named in the statute is a deadly weapon is a question of fact to be determined by the trier of fact, and the resolution of that fact question will depend on the evidence adduced as to the use or intended use of the object or weapon. *State v. Williams*, 218 Neb. 57, 352 N.W.2d 576 (1984).

Whether an object or weapon not specifically enumerated in subsection (1) of this section was a deadly weapon is a question of fact to be decided by the trier of fact. *State v. Kanger*, 215 Neb. 128, 337 N.W.2d 422 (1983).

Section 28-1202(1), R.S.Supp.,1978, combined with the definition of "deadly weapon" found in section 28-109, R.S.Supp.,1978, is sufficiently definite to meet the requirements of the first and fifth amendments to the U.S. Constitution and Art. I, section 3, of the Nebraska Constitution. *State v. Valencia*, 205 Neb. 719, 290 N.W.2d 181.

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**Nebraska Statutes 28-904**

**Resisting arrest; penalty; affirmative defense.**

(1) A person commits the offense of resisting



arrest if, while intentionally preventing or attempting to prevent a peace officer, acting under color of his or her official authority, from effecting an arrest of the actor or another, he or she:

(a) Uses or threatens to use physical force or violence against the peace officer or another; or

(b) Uses any other means which creates a substantial risk of causing physical injury to the peace officer or another; or

(c) Employs means requiring substantial force to overcome resistance to effecting the arrest.

(2) It is an affirmative defense to prosecution under this section if the peace officer involved was out of uniform and did not identify himself or herself as a peace officer by showing his or her credentials to the person whose arrest is attempted.

(3) Resisting arrest is (a) a Class I misdemeanor for the first such offense and (b) a Class IIIA felony for any second or subsequent such offense.

(4) Resisting arrest through the use of a deadly or dangerous weapon is a Class IIIA felony.

**Source:**

Laws 1977, LB 38, § 189; Laws 1982, LB 465, § 2;  
Laws 1997, LB 364, § 10.

**Annotations:**

This is a serious offense for which a jury trial is constitutionally required unless knowingly and intelligently waived by the defendant. *State v. Bishop*, 224 Neb. 522, 399 N.W.2d 271 (1987).

It is an affirmative defense to prosecution under this section if the peace officer involved was out of uniform and did not identify himself as a peace officer by showing his credentials to the person whose arrest is attempted. *State v. Daniels*, 220 Neb. 480, 370 N.W.2d 179 (1985).

Where there was evidence that the arrestee communicated his intention to arrest the arrestee, the arrestee understood the intention, and the arrestee had the apparent ability to control the arrestee, a jury instruction on resisting arrest was not necessary. *State v. White*, 209 Neb. 218, 306 N.W.2d 906 (1981).

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## City of Lincoln Ordinances

### Chapter 9.08 OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT

**Sections:**

**9.08.010 Refusal to Assist Officer.**

**9.08.020 Interfering with Officer Making Arrest.**

**9.08.030 Resisting Officer.****9.08.040 False Statement.****9.08.050 Compliance with Order.****9.08.060 Impersonating Police Officer.****9.08.070 Injuring Police Dogs Prohibited.****9.08.080 Interfering with Police Dogs Prohibited.****9.08.090 Fire or Emergency; False Report.****9.08.100 Permit to Equip Private Auto with Shortwave Receiving Set.****9.08.110 Failure to Appear.****9.08.010 Refusal to Assist Officer.**

It shall be unlawful for any person, who has been summoned or commanded by any police officer or other officer to assist such officer in making an arrest, to intentionally or knowingly refuse or neglect to obey such summons or command. (Ord. 15618 §1; July 9, 1990: P.C. §9.12.010: Ord. 3489 §21-505; July 6, 1936).

**9.08.020 Interfering with Officer Making Arrest.**

It shall be unlawful for any person to intentionally do any act or utter any word encouraging, inciting, or proposing or intending to encourage or incite, any person in the custody of a police officer of the city, or any peace officer, to prevent or hinder his or her arrest or to escape from custody; and it shall be unlawful for any person to use violence to any police officer in the execution of his duty, or to use violence to any person summoned to aid in making an arrest. (Ord. 15618 §2; July 9, 1990: P.C. §9.12.030: Ord. 13764 §1; February 13, 1984: Ord. 3489 §21-503; July 6, 1936).

**9.08.030 Resisting Officer.**

It shall be unlawful for any person to intentionally, knowingly, or recklessly assault, strike, physically hinder, delay, interrupt, or in any manner physically oppose any police officer of the city, or any peace officer, in making an arrest. (Ord. 15618 §3; July 9, 1990: P.C. §9.12.040: Ord. 13764 §2; February 13, 1984: Ord. 13069 §1; January 5, 1981: Ord. 3489 §21-504; July 6, 1936).

**9.08.040 False Statement.**

It shall be unlawful for any person to make a false statement known by such person to be false to any police officer concerning the subject of an investigation. (Ord. 15618 §4; July 9, 1990: P.C. §9.12.050: Ord. 13764 §3; February 13, 1984).

**9.08.050 Compliance With Order.**

It shall be unlawful for any person to intentionally or knowingly refuse to comply with an order of a police officer made in the performance of official duties at the scene of an arrest, accident, or investigation. (Ord. 15618 §5; July 9, 1990: P.C. §9.12.060: Ord. 13764 §4; February 13, 1984).

**9.08.060 Impersonating Police Officer.**

It shall be unlawful for any person not duly authorized or commissioned as a peace officer, as required by law, to in any manner intentionally or knowingly represent to another person, or impersonate, or attempt to impersonate that he or she is a duly authorized or commissioned peace officer. (Ord. 15618 §6; July 9, 1990: P.C. §9.52.180: Ord. 3489 §21-218, as amended by Ord. 3726; March 11, 1940).

**9.08.070 Injuring Police Dogs Prohibited.**

It shall be unlawful for any person to intentionally, knowingly, or recklessly tease, torture, torment, beat, kick, strike, mutilate, injure, disable, or kill any dog owned or used by the Police Department of the City of Lincoln. (Ord. 15618 §7; July 9, 1990: P.C. §9.53.010: Ord. 13902 §1; July 30, 1984: Ord. 7616 §1;

December 11, 1961).

**9.08.080 Interfering with Police Dogs Prohibited.**

It shall be unlawful for any person to intentionally, knowingly, or recklessly interfere with, disturb, or meddle with any dog owned or used by the Police Department of the City of Lincoln while such dog is being used by said department or any member thereof in the performance of any duties or functions of said department or of such member. (Ord. 15618 §8; July 9, 1990: P.C. §9.53.015: Ord. 13902 §2; July 30, 1984).

**9.08.090 Fire or Emergency; False Report.**

(a) It shall be unlawful for any person to intentionally or knowingly make false alarm or report of a fire.  
(b) It shall be unlawful for any person to impart or convey, or cause to be imparted or conveyed, any false information knowing the same to be false concerning the need for assistance of emergency personnel or equipment. (Ord. 15618 §9; July 9, 1990: P.C. §19.08.020: Ord. 9632 §2; November 18, 1968: Ord. 3489 §10-402; July 6, 1936).

**9.08.100 Permit to Equip Private Auto with Shortwave Receiving Set.**

It shall be unlawful for any person, except police officers of the city, or other duly authorized or commissioned peace officers, to equip any automobile with a shortwave length radio receiving set or use the same in such automobile without first obtaining a permit therefor from the Chief of Police of the city. Before granting such permit, the Chief of Police shall require from the permittee a sworn, written statement, that such radio receiving set will not be used to assist in the escape of any criminals or for any other unlawful purpose. (Ord. 15618 §10; July 9, 1990: P.C. §9.60.040: Ord. 3489 §36-204; July 6, 1936).

**9.08.110 Failure to Appear.**

(a) It shall be unlawful for any person served with a summons or set at liberty, with or without bail, upon the condition that such person will subsequently appear in court at a specific time and place, to fail or refuse to appear at that time and place to answer any charge brought under the Lincoln Municipal Code.  
(b) For the purposes of this section, the word "summons" shall mean any document, including a citation, whereby a person is notified to appear in court. (Ord. 15618 §11; July 9, 1990: P.C. §30.04.060: Ord. 13973 §1; October 8, 1984).

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**Chapter 9.12 OFFENSES AGAINST THE PERSON**

**Sections:**

**9.12.010 Assault and Battery; Menacing Threats.**

**9.12.010 Assault and Battery; Menacing Threats.**

(a) It shall be unlawful for any person intentionally or knowingly to:  
(1) Threaten another in a menacing manner; or  
(2) Attempt to strike another person; or  
(3) Place another person in fear or apprehension of imminent bodily harm.  
(b) It shall be unlawful for any person intentionally, knowingly, or recklessly to:  
(1) Cause bodily injury to another person; or  
(2) Strike another person.  
(Ord. 17126 §1; January 21, 1997: prior Ord. 15619 §1; July 9, 1990: P.C. §9.52.025: Ord. 10695 §2; February 20, 1973).

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## Chapter 9.36 WEAPONS

### Sections:

#### **9.36.010 Discharge of Firearms Unlawful.**

#### **9.36.020 Minors Not to be Furnished With Firearms, Ammunition or Weapons.**

#### **9.36.025 Firearms Offered for Sale at Retail; Access Restricted.**

#### **9.36.030 Report Sale of Firearms.**

#### **9.36.040 Unlawful to Sell or Possess Switch-Blade Knife.**

#### **9.36.050 Discharge of Weapons and Other Instruments Unlawful.**

#### **9.36.060 Toy Guns or Sling Shots That Discharge Dangerous Missiles Not to be Carried.**

#### **9.36.070 Minors Not to be Furnished With Toy Guns or Slingshots That Discharge Missiles.**

#### **9.36.080 Exemptions.**

#### **9.36.090 Transporting Explosives; Port of Entry; Routes; Penalty.**

#### **9.36.100 Unlawful Possession of Firearms.**

#### **9.36.110 Firearms in Attended Motor Vehicle; Unlawful.**

#### **9.36.120 Firearm; Defined.**

#### **9.36.010 Discharge of Firearms Unlawful.**

It shall be unlawful for any person, except as provided in this chapter, to fire or discharge any gun or firearm, including any pistol, revolver, shotgun, or rifle, within the corporate limits, or on any property of the City of Lincoln outside of the corporate limits. (Ord. 15625 §1; July 9, 1990: P.C. §9.28.010: Ord. 9382 §1; January 22, 1968: prior Ord. 3489 §9-101, as amended by Ord. 6513; December 3, 1956).

#### **9.36.020 Minors Not to be Furnished With Firearms, Ammunition or Weapons.**

(a) It shall be unlawful for any person to sell, loan, or furnish to any minor any gun, fowling piece, or other firearm, any ammunition or component thereof, or any pocket knife having a blade more than three and one-half inches in length; provided, it shall be lawful to sell, loan, or furnish shotguns or rifles, of a type commonly used for hunting, and any ammunition or component thereof for the same, to persons eighteen years of age or older.

(b) This section shall not apply to delivery or transfer of rifles or shotguns or ammunition or components thereof to a juvenile:

(1) By the juvenile's parent or legal guardian for a legitimate and lawful sporting purpose; or

(2) Who is under direct adult supervision in an appropriate educational or competitive shooting program. (Ord. 17529 § 1; July 19, 1999: prior Ord. 15625 §2; July 9, 1990: P.C. §9.28.020: Ord. 3489 §9-102, as amended by Ord. 6675; November 25, 1957).

#### **9.36.025 Firearms Offered for Sale at Retail; Access Restricted.**

It shall be unlawful for any person to display for sale at retail any firearm or firearms, or any ammunition for firearms or reloading components thereof, without such firearm or firearms, or ammunition for firearms or reloading components thereof, being secured so as to cause them to be inaccessible without the assistance of authorized sales personnel of the retailer. (Ord. 16975 §1; April 29, 1996).

#### **9.36.030 Report of Sale of Firearms.**

Any person, firm, association, or corporation dealing in firearms of any type shall, on the same day of the sale of any firearm, except a shotgun or a rifle of a type commonly used for hunting, report the sale to the Police Department on forms as prescribed and furnished by the Police Department. The report shall contain all the information requested thereon. (Ord. 15625 §3; July 9, 1990: P.C. §9.28.025: Ord. 15443 §1; February 20, 1990: prior Ord. 7936 §1; December 26, 1962).

**9.36.040 Unlawful to Sell or Possess Switch-Blade Knife.**

It shall be unlawful for any person to sell, give away, or furnish to another person any switch-blade knife; and it shall be unlawful for any person to have in his or her possession, custody, or control any switch-blade knife. (Ord. 15625 §4; July 9, 1990: P.C. §9.28.030: Ord. 3489 §9-101.1, as amended by Ord. 6284; February 20, 1956).

**9.36.050 Discharge of Weapons and Other Instruments Unlawful.**

It shall be unlawful for any person, except as provided in this chapter, to fire or discharge, within the corporate limits, or on any property of the City of Lincoln outside of the corporate limits, any air rifle, toy pistol, toy gun, slingshot, or any other air, gas, or spring operated gun, weapon, apparatus, or instrument for the purpose of throwing or projecting missiles of any kind by any means whatsoever in such a manner as to endanger the safety of persons or property, whether the instrument is called by any name set forth above or by any other name. (Ord. 15625 §5; July 9, 1990: P.C. §9.28.040: Ord. 9382 §2; January 22, 1968: prior Ord. 3489 §9-103; July 6, 1936).

**9.36.060 Toy Guns or Slingshots That Discharge Dangerous Missiles Not to be Carried.**

It shall be unlawful for any person to carry about his or her person any toy pistol, toy gun, or other toy arm or arms, or slingshot, out of or by which any leaden or other dangerous missiles may be discharged. (Ord. 15625 §6; July 9, 1990: P.C. §9.28.050: Ord. 3489 §9-104; July 6, 1936).

**9.36.070 Minors Not to be Furnished With Toy Guns or Slingshots That Discharge Missiles.**

It shall be unlawful for any parent, guardian, or other person having the care and custody of any minor, to purchase for or give to any such minor or knowingly to permit any such minor to have any toy pistol, toy gun, or other toy arm or arms, or slingshot, out of which any leaden or other dangerous missiles may be discharged. (Ord. 15625 §7; July 9, 1990: P.C. §9.28.060: Ord. 3489 §9-105; July 6, 1936).

**9.36.080 Exemptions.**

The provisions of Sections 9.36.010 and 9.36.050 shall not apply to (a) licensed shooting galleries or archeries; (b) any range operated, supervised, and maintained by the United States of America, the State of Nebraska, or any governmental subdivision thereof, when in connection with an educational or training program and upon property owned or leased by the United States of America, the State of Nebraska, or subdivision or agency thereof; (c) a private building within which the instrument is fired, discharged, or operated in the private building in such a manner as to prevent the missile projected from traversing in the space outside of the private building; (d) any law enforcement officer in the performance of such officer's duties; (e) any agent or employee of a political subdivision engaged in controlling the bird or animal population on property owned, leased, or controlled by such political subdivision when authorized by such political subdivision for the protection of the public health, safety, or welfare; and (f) any City recognized homeowner association, located in a flight pattern designated by the Lincoln Airport Authority and in need of bird control, may engage in nonlethal means of controlling the bird population on property owned, leased or controlled by the homeowner association when authorized by the City of Lincoln and while under the supervision of the Nebraska Game & Parks Commission for the protection of the public health, safety, or welfare. The Lincoln Airport Authority must file with the City Clerk a copy of the flight patterns and areas in which control of the bird population is necessary. (Ord. 18110 §1; December 9, 2002: prior Ord. 17377 §1; July 13, 1998: Ord. 15625 §8; July 9, 1990: P.C. §9.28.130: Ord. 9382 §3; January 22, 1968: Ord. 3489 §9-112, as amended by Ord. 4382; March 8, 1943).

**9.36.090 Transporting Explosives; Port of Entry; Routes; Penalty.**

It shall be unlawful for any person, firm, or corporation to convey, or transport through any street, avenue, alley, or other public place within the city, any dynamite, nitro-glycerine, gunpowder, guncotton, TNT, or any other explosive material, including fireworks of every nature or description,

without first having stopped at a port of entry hereinafter designated, and having notified the Police Department of the city of their intention to move said vehicle within or through the city and requesting a police escort. Such vehicle, or vehicles, shall follow such route, or routes, as may be designated to them by such police escort. The City Council shall, by resolution, designate ports of entry at which all such vehicles shall stop. (Ord. 15625 §9; July 9, 1990: P.C. §9.28.150: Ord. 5633 §§ 1,2; October 21, 1953).

### **9.36.100 Unlawful Possession of Firearms.**

It shall be unlawful for any person to possess any firearm within the corporate limits or on any property of the City of Lincoln outside the corporate limits when that person has been convicted of any one of the following offenses within the last ten years: Stalking in violation of Neb. Rev. Stat. § 28-311.03 or any other comparable or similar state statute from another state; Violation of a protection order as set forth in Neb. Rev. Stat. § 42-924 or Violation of a foreign protection order as set forth in Neb. Rev. Stat. § 42-931; False imprisonment in the second degree in violation of Neb. Rev. Stat. § 28-315; Sexual assault in the third degree in violation of Neb. Rev. Stat. § 28-320; Impersonating a peace officer in violation of Neb. Rev. Stat. § 28-610; or, Impersonating police officer in violation of Lincoln Municipal Code § 9.08.060; Debauching a Minor in violation of Neb. Rev. Stat. § 28-805; Obstructing government operations in violation of Neb. Rev. Stat. § 28-901; Resisting arrest in violation of Neb. Rev. Stat. § 28-904; Resisting officer in violation of Lincoln Municipal Code § 9.08.030; Obstructing a peace officer in violation of Neb. Rev. Stat. § 28-906; Interfering with an officer making an arrest in violation of Lincoln Municipal Code § 9.08.020; Carrying concealed weapon in violation of Neb. Rev. Stat. § 28-1202; Criminal child enticement in violation of Neb. Rev. Stat. § 28-311; Implements for escape in violation of Neb. Rev. Stat. § 28-913; Unlawful possession of explosives, second degree in violation of Neb. Rev. Stat. § 28-1216; Use of explosives without a permit in violation of Neb. Rev. Stat. § 28-1218; Concealing the death of another person in violation of Neb. Rev. Stat. § 28-1302; Minors not to be furnished with firearms, ammunition, or weapons in violation of Lincoln Municipal Code § 9.36.020; Discharge of firearms unlawful in violation of Lincoln Municipal Code 9.36.010; and Criminal attempt (where the crime attempted is a felony or any of the above Nebraska State Statute misdemeanor violations) in violation of Neb. Rev. Stat. § 28-201.

The provisions of this section shall not apply to (a) the issuance of firearms or the possession by members of the Armed Forces of the United States, active or reserve, the National Guard of this state, or Reserve Officers Training Corps, when on duty or training; or (b) a peace officer as defined by Neb. Rev. Stat. § 28-109(14). (Ord. 18158 §1; April 7, 2003).

### **9.36.110 Firearms in Attended Motor Vehicle; Unlawful.**

It shall be unlawful for any person to keep a firearm in an unattended motor vehicle for a period in excess of twenty-four hours.

The provisions of this section shall not apply to members of the Armed Forces of the United States, active or reserve, the National Guard of this state, or Reserve Officers Training Corps, when on duty or training, or peace officers or other duly authorized law enforcement officers, nor shall it apply to vehicles containing firearms that are parked in locked enclosures or buildings, such as garages or other storage facilities. (Ord. 18158 §2; April 7, 2003).

### **9.36.120 Firearm; Defined.**

For purposes of Sections 9.36.100 and 9.36.110 of the Lincoln Municipal Code, "firearm" shall mean any weapon which is designed to or may be readily converted to expel any projectile by action of an explosive or frame or receiver of any such weapon including, but not limited to, any pistol, revolver, shotgun, or rifle. (Ord. 18158 §3; April 7, 2003).

*Compilation by the Nebraska Hapkido Association, 2003.*

*Note that while these may be legal statutes and ordinances, this page does not constitute legal advice.*