



Stray Animals Section 4 — Liability and Tort Law

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Note: *This publication is intended to provide general information about legal issues. It should not be cited or relied upon as legal authority. State laws vary and no attempt is made to discuss laws of states other than Oklahoma. For advice about how these issues might apply to your individual situation, consult an attorney.*

What do I do if someone's animal strays onto my land?

If a domestic animal strays onto your land or a public thoroughfare that adjoins your land, you can take it into your temporary possession. You need to notify its owner, if known. The owner is responsible for paying you the reasonable costs of caring for the animal, plus any damages the animal caused to your property.

If you do not know who owns the animal, you need to make a reasonable investigation to determine who is the owner. You also must report all the facts of the event to the county sheriff within seven days of taking up the animal. If you cannot identify the owner, the sheriff will investigate the matter.

If someone approaches you claiming to be the owner of the animal, you should notify the sheriff immediately. If the sheriff is convinced that the individual is the owner of the animal, he/she will issue an order granting the person permission to reclaim the animal.

Meanwhile, if the sheriff finds the owner, the owner will be notified to pick up the animal and make the payments noted above. If the owner cannot be determined, the sheriff will place a notice in the county newspaper. If the owner still cannot be found 10 days after publication, the animal will be

sold at auction, and you will be reimbursed for the costs of keeping the animal plus any damages the animal caused to your property. The balance of the proceeds of the sale will be held in the county treasury for one year in case the owner appears. At the end of one year, the funds go into the county general fund.

It is important that you follow the proper procedures; failing to do so and concealing the animal, or selling it as if it were your own, constitutes larceny of domestic animals, which is a felony in Oklahoma. See Figure 1 for a flowchart detailing the procedure for handling a stray animal.

What is my responsibility if one of my animals wanders off my land?

When you notice that an animal is missing, you should try to locate it immediately, because you are liable for any damage it may cause to the land and facilities of others. If you cannot find it, you need to report the matter to the county sheriff, making sure to include a thorough description of the missing animal(s). Thus, if the animals are found by another landholder, you can be notified as indicated in the preceding section. You are responsible for paying the person holding the animal for the expenses of its care plus any damages it caused to property. If you refuse to pay, the sheriff may have the animal sold.

Remember: *It is your responsibility to keep domestic animals and exotic animals, other than house pets, reasonably confined. Knowingly allowing them to run free is a misdemeanor punishable by a fine of up to \$50 and/or up to 30 days in the county jail.*

One of my animals escaped and was hit by an automobile. Am I liable for the damages to the automobile?

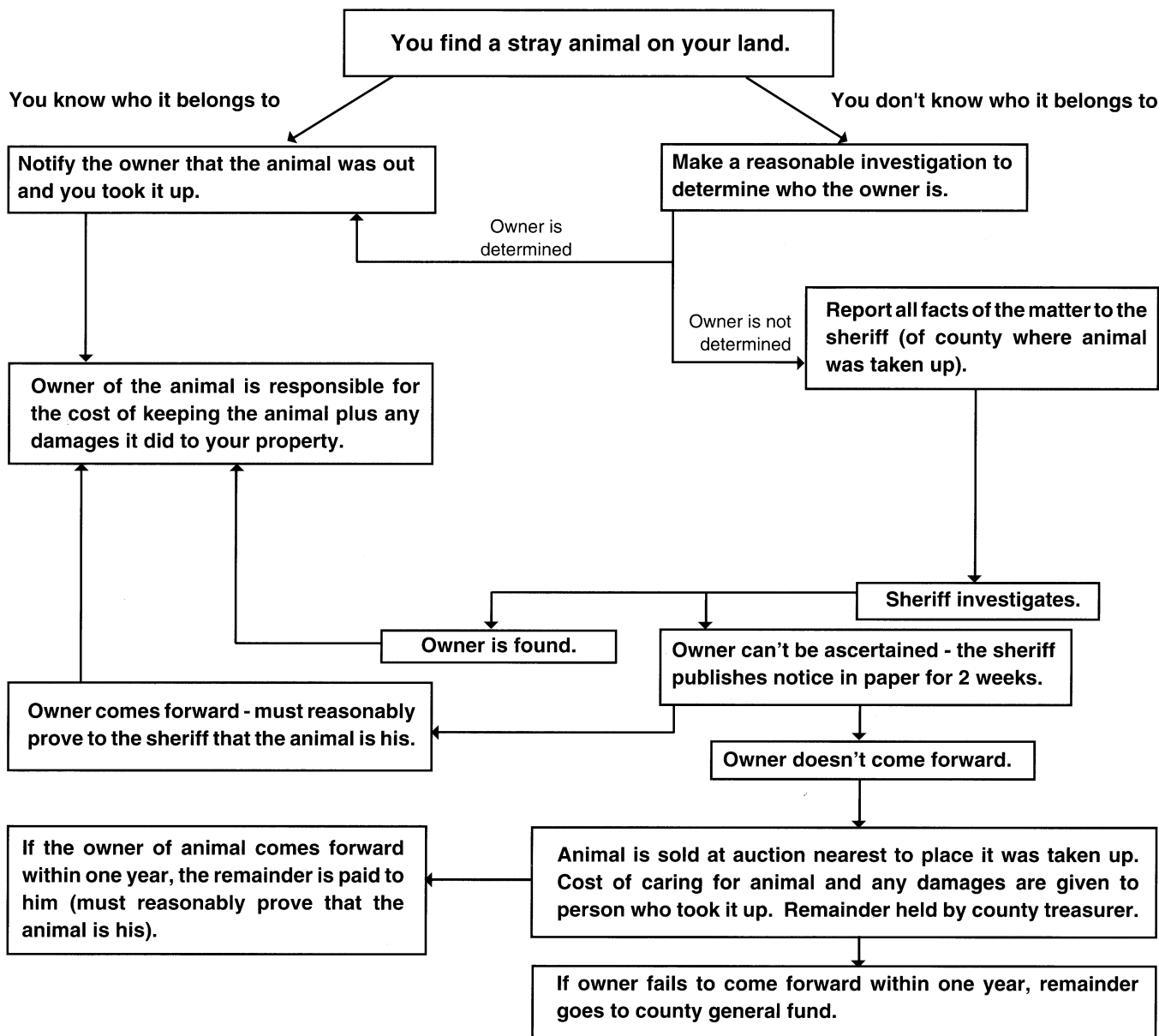
The Oklahoma Supreme Court has held that the Oklahoma Herd Law (the law that sets out the responsibility of animal owners to keep their animals confined) does not protect motorists traveling on public highways against the hazards created by stray animals on those highways. As a result, the owner of the animal that escaped is not automatically liable for damages caused in an accident involving that

animal and an automobile. However, if the owner intentionally allowed the animal to run free on the highway, or did not exercise reasonable effort to keep the animal confined or to retrieve the animal after it escaped, then the owner could be found negligent and thus liable for damages.

Legal references:

Title 4 Oklahoma Statutes, sections 85.1 *et. seq.* — the Oklahoma Herd Law
 Shuck v. Cook, Okl. 494 P.2d 306 (1972)
 Champlin Refining Co. v. Cooper, Okl. 86 P.2d 306

Figure 1. Stray Animal Procedure Flow Chart



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Issued in furtherance of Cooperative Extension work, acts of May 8 and June 30, 1914, in cooperation with the U.S. Department of Agriculture, Samuel E. Curl, Director of Cooperative Extension Service, Oklahoma State University, Stillwater, Oklahoma. This publication is printed and issued by Oklahoma State University as authorized by the Dean of the Division of Agricultural Sciences and Natural Resources and has been prepared and distributed at a cost of \$125.00 for 1,500 copies. #4380 0299 SF/MSC.