

**MILLVILLE CITY CODE**  
**TITLE 6 - ANIMALS**  
**CHAPTER 6.16 - ESTRAYS**

[6.16.010: IMPOUNDING AND DISPOSAL OF ESTRAYS, GENERALLY](#)

[6.16.020: NOTICE OF SALE OF ESTRAYS](#)

[6.16.030: RETURN TO OWNER ON PAYMENT OF COSTS; SALE](#)

[6.16.040: RECORD OF ESTRAYS](#)

[6.16.050: TRESPASSING ANIMALS; DAMAGING; IMPOUNDING](#)

[6.16.060: APPRAISEMENT OF DAMAGES](#)

[6.16.070: OWNER TO BE NOTIFIED](#)

[6.16.080: FAILURE TO NOTIFY WAIVES DAMAGES](#)

[6.16.090: WHERE OWNER UNKNOWN; DUTY OF ANIMAL CONTROL OFFICER](#)

[6.16.100: NOTICE OF SALE OF DISTRAINED ANIMALS](#)

[6.16.110: OWNER MAY PAY AND TAKE ANIMALS; DISPUTED APPRAISAL](#)

[6.16.120: SALE; BILL OF SALE](#)

[6.16.130: REDEMPTION WITHIN NINETY DAYS](#)

[6.16.140: OWNER ENTITLED TO RESIDUE OF PROCEEDS](#)

[6.16.150: RECORD OF TRESPASSING ANIMALS](#)

[6.16.160: RETAKING ANIMAL UNLAWFULLY](#)

**6.16.010: IMPOUNDING AND DISPOSAL OF ESTRAYS, GENERALLY**

It is made the duty of the animal control officer to take into his or her possession and impound all estrays running at large, and to dispose of the same as hereinafter provided. Whenever the word "stray" appears in this chapter, it is defined to mean any valuable animal, except dogs or cats, not wild, found wandering from its owner. (Prior code § 13-261)

## **6.16.020: NOTICE OF SALE OF ESTRAYS**

Within three (3) days after an estray shall come into the possession of the animal control officer, he or she shall advertise the same in a newspaper published in and having general circulation in the county by publishing a notice in at least one issue of the newspaper, and by posting notices for a period of ten (10) days in three (3) public places in the municipality, one of which places shall be at or near the post office. He or she shall immediately deliver a copy of such notice to the county clerk or mail the same to him or her by registered letter. The notice so filed with the clerk should be available during reasonable hours for inspection by the public free of charge. The notice herein provided for shall contain a description of the animals, including all marks and brands, when taken, and the day, hour, and place of sale, and may be substantially in the following form:

### *NOTICE*

*State of Utah, County of*

*In the of*

*I have in my possession the following described estray animals, which, if not claimed and taken away, will be sold at public auction to the highest cash bidder at the municipal pound in the of on the day of 20 at the hour of .*

*(Description of Animals)*

*The estrays were taken up by me in this municipality on the day of 20 .*

*Animal Control Officer of the*

(Prior code § 13-262)

## **6.16.030: RETURN TO OWNER ON PAYMENT OF COSTS; SALE**

If at any time before the sale of any estrays, such animals shall be claimed and proved to be the property of any person, the animal control officer shall deliver them to the owner upon receiving from him or her the cost of impounding, keeping and advertising the same. If the animals are not so claimed and taken away, he or she shall, at the time and place mentioned in the notice, proceed to sell the same, one at a time, to the highest cash bidder, and shall execute and deliver a bill of sale transferring the animals to the purchaser or purchasers thereof, which bill of sale shall be substantially in the following form:

I hereby certify that in pursuance of the law regulating the disposal of estrays and trespassing animals. I have this day sold to for the sum of \$ he being the highest bidder, head of branded with the municipality estray brand and otherwise described as follows, to-wit:

(Description of Animals)

Witness my hand this day of 20

Animal Control Officer

\_of  
State of Utah

The animal control officer shall immediately file a copy of such bill of sale with the county clerk or forward the same to him or her by registered mail. Such bill of sale shall transfer and vest in such purchaser the full title to the animals thus sold. (Prior code § 13-263)

#### **6.16.040: RECORD OF ESTRAYS**

The animal control officer shall keep an accurate record of all estrays received by him or her, their age, color, sex, marks, and brands, the time and place of taking and the expense of keeping and selling the same, all animals claimed and taken away, all animals sold and to whom sold and the amount paid, all monies paid to owners after sale, all monies paid into the treasury, and all other matters necessary to a compliance with the provisions of this chapter. The governing body shall provide the animal control officer with a suitable book in which shall be entered the records required by law to be kept by the animal control officer. Such records shall be open to the inspection of the public at all reasonable hours, and shall be deposited by the animal control officer with his or her successor in office. (Prior code § 13-264)

#### **6.16.050: TRESPASSING ANIMALS; DAMAGING; IMPOUNDING**

If any cattle, horses, asses, mules, sheep, goats or swine shall trespass or do damage upon the premises of any person, the party aggrieved, whether he or she be the owner or the occupant of such premises, may recover damages by an action at law against the owner of the trespassing animals or by distraining and impounding the animals in the manner provided. (Prior code § 13-265)

### **6.16.060: APPRAISEMENT OF DAMAGES**

The owner or occupant of any property may distrain any or all of the animals trespassing or doing damage thereon. He or she shall, within twenty four (24) hours thereafter, deliver the animals to the animal control officer together with a certificate of the appraisal of the damage done by such animals. Such appraisal must be made by some disinterested person. It must state the amount of the damage, the time when committed, the name of the person damaged, the name of the owner of the animals, if known, and if not known, it must state that fact together with a description of the animals, including all visible marks and brands. If the animals appear to be owned by different parties, a separate appraisal and a separate certificate thereof shall be made of the damage done by the lot or group of animals which appear to belong to each of the different owners. In such cases, the owners shall be notified separately, and each lot or group of animals shall be advertised and sold separately in the same manner as though the damage had been done by different animals at different times. (Prior code § 13-266)

### **6.16.070: OWNER TO BE NOTIFIED**

The person distraining the animals must, if the owner of the same be known to him or her and if he or she resides within ten (10) miles of the place of the trespass, immediately deliver to such owner, or leave at his or her place of residence if he or she cannot be found, a copy of such certificate of appraisal, but if the owner does not live within ten (10) miles of the place of trespass, the party distraining the animals may at his or her option deliver a copy of such certificate to the owner in person, or deposit the same in the nearest post office in a registered letter addressed to the owner. He or she shall be entitled to charge an amount to be set by resolution per mile one way for the first ten (10) miles necessarily traveled in delivering such certificate, and an amount to be set by resolution for each additional mile, to be taxed as costs against the animals. (Prior code § 13-267)

### **6.16.080: FAILURE TO NOTIFY WAIVES DAMAGES**

If the party distraining any animals shall fail to deliver them or the certificate of appraisal to the animal control officer within forty eight (48) hours, or shall fail to deliver to the owners of the animals, if known, a copy of the certificate of appraisal within twenty four (24) hours after he or she receives the same or to deposit the same in a post office as herein provided, he or she shall not be entitled to recover damages under the provisions of this section. (Prior code § 13-268)

## **6.16.090: WHERE OWNER UNKNOWN; DUTY OF ANIMAL CONTROL OFFICER**

Whenever any animals are delivered to the animal control officer and the certificate of appraisal is filed with him or her as herein provided and such certificate states that the owner is unknown, the animal control officer shall immediately examine all brand books or brand sheets in his or her possession. If the owner be ascertained thereby or if the owner be already known to the animal control officer, he or she shall, if the owner lives within ten (10) miles, immediately deliver a copy of such certificate of appraisal to such owner, or leave the same at his or her residence if he or she cannot be found. If the owner lives more than ten (10) miles away, the animal control officer may at his or her option deliver such copy personally to the owner, or deposit the same in the nearest post office in a registered letter addressed to such owner. He or she shall, however, serve a copy in one of the ways provided herein; provided that whenever personal service of a copy of any paper is required by this chapter, service by agent shall be deemed sufficient. (Prior code § 13-269)

## **6.16.100: NOTICE OF SALE OF DISTRAINED ANIMALS**

As soon as any such animals are delivered to the animal control officer, he or she shall immediately proceed to advertise the same as hereinafter provided except when the owner is known and has been notified, in which case he or she shall hold the animals forty eight (48) hours before advertising the same. He or she shall advertise in a newspaper published in and having general circulation in the county, by publishing a notice in at least one issue of the paper, by posting notices in three (3) public places in the municipality, one of which shall be at or near the post office, and he or she shall deliver a copy of the same to the county clerk or send the same by deputy or by registered mail. The clerk should preserve such notice and post a copy thereof. The notice herein provided for shall state the time when the damage was done and the amount thereof, the name of the party damaged, a description of the animals, including all visible marks and brands, and the day, hour, and place at which such animals will be sold, which shall be not less than ten (10) or more than twenty (20) days from the time of posting such notice. The notices shall be substantially in the following form:

### *SALE OF ANIMALS FOR DAMAGE*

*State of Utah, County of*

*In the of*

*I have in my possession the following described animals, which, if not claimed and taken away, will be sold at public auction to the highest cash bidder at the municipal pound in the of on the day of 20 at the hour of .*

*(Description of Animals)*

*The above described animals are held by me to secure the payment of \$ damages done by those animals on the premises of on the day of 20 .*

*Animal Control Officer of the*

*of*

(Prior code § 13-270)

### **6.16.110: OWNER MAY PAY AND TAKE ANIMALS; DISPUTED APPRAISAL**

The owner of any trespassing animals taken up under the provisions of this chapter may at any time before the sale thereof claim and take such animals away upon paying the amount of damages set forth in the certificate of appraisement and the accrued costs, and if such animals are included in a lot or group of animals belonging to other parties against which the damages and costs are assessed as a whole, he or she shall pay his or her proportion of the total amount of damages and costs assessed against such animals, according to the number of animals he or she owns when compared with the number of the entire lot or group. If he or she deems the appraisal too high, he or she may choose another appraiser having the qualifications herein provided who with the first appraiser shall make a new appraisal, and if they cannot agree, they shall choose a third appraiser, and the three (3) shall proceed to make another appraisal, and the decision of the majority shall be final. (Prior code § 13-271)

### **6.16.120: SALE; BILL OF SALE**

If such animals are not claimed and taken away by the owner, the animal control officer shall, at the time and place set forth in the notice of sale, proceed to sell such animals, one at a time, to the highest cash bidder. If the owner of any lot of animals to be sold is known, the animal control officer shall sell only enough of the animals to pay the damages and debts, the remainder may be turned over to the owner at any time thereafter; but if the owner be unknown, the animal control officer shall proceed to sell all of the animals so advertised for sale. He or she shall execute and deliver a bill of sale therefor, and file a copy with the county clerk as hereinbefore provided. (Prior code § 13-272)

### **6.16.130: REDEMPTION WITHIN NINETY DAYS**

The owner of any trespassing animals sold under the provisions of this chapter may, at any time within ninety (90) days of the date of such sale, redeem such animals from the purchaser or assignee having the same in his or her possession, upon paying to such purchaser or assignee the sum for which such animals were originally sold, together with an additional ten percent (10%) and reasonable compensation for the care and keeping of the same. If such purchaser or assignee refuses to give up such animals on the owner proving his or her title to the same and on his or her tendering the amount due as herein provided, such owner may maintain an action at law to recover the same, provided that the purchaser or any assignee who has disposed of such animals shall not be liable to such owner in any amount. If redemption of such animals is not made within ninety (90) days after the date of such sale, such sale shall be absolute and shall vest the title to such animals in the purchaser or assignee. Any person selling or disposing of any such animal within ninety (90) days of its sale under the provisions of this section shall notify the purchaser of the same of the date of the original sale and the amount paid for such animal at that time, and if he or she fails to do so, he or she shall be liable for any loss that may accrue to such purchaser by reason of such animal being redeemed for an amount less than he or she paid therefor. (Prior code § 13-273)

### **6.16.140: OWNER ENTITLED TO RESIDUE OF PROCEEDS**

If any estrays or trespassing animals sold under the provisions of this chapter shall, within a period of six (6) months following the date of sale, be claimed and proved to be the property of any person, it shall be the duty of the treasurer at the expiration of such time to pay the money received for such animals to the owner thereof, less the amount of damages and the expense of taking, keeping, and selling the same. In the event such animals are not claimed as aforesaid, such money shall become the property of the municipality, provided that in case there is a contest between two (2) or more persons claiming to be the owners of any such animals, the treasurer shall pay the residue to the party who shall establish by action his or her right to the same. (Prior code § 13-274)

### **6.16.150: RECORD OF TRESPASSING ANIMALS**

The animal control officer shall keep an accurate record of all trespassing animals received by him or her, which record shall contain all the items required by this chapter together with the names of the injured party and the owner of the animals, the amount of the damages claimed, and all other matters necessary to a complete account of the transaction. Such record shall be open for inspection at all reasonable hours without charge. (Prior code § 13-275)

### **6.16.160: RETAKING ANIMAL UNLAWFULLY**

It is unlawful for anyone to take any animal out of the possession of anyone lawfully holding the same under the provisions of this chapter, either by stealth, force, fraud, or to intercept or hinder any person lawfully taking up or attempting to take up such animals. (Prior code § 13-276)