

Range Stock, Impounding of by City or Town. Impounding, of Range Stock. Ordinances of City or Town, Impounding of Range Stock Under.

Range stock, as well as other stock, if found running at large in an incorporated city or town contrary to ordinance, may be impounded.

It is within the power of an incorporated city or town to make and pass ordinances prohibiting the running at large of horses, etc., and range animals, if found running at large contrary to such ordinance, may be impounded.

June 18th, 1913.

Hon. D. W. Raymond,
Secretary, Board of Stock Commissioners,
Helena, Montana.

Dear Sir:

I beg to acknowledge receipt of yours of the 16th instant, asking my opinion as to whether incorporated towns have any authority to impound range stock.

In reply thereto I will say that Subdiv. 36 of Sec. 3259 of the Revised Codes of Montana, 1907, is as follows:

"The city or town council has power to regulate, restrain, or prohibit the running at large of horses, cattle, swine, sheep, goats and dogs, or other animals, and to authorize the impounding and sale thereof, if found at large, contrary to ordinance."

The authority given to municipal corporations under this section is general, and would apply as well to range stock as to that which was kept in enclosures, either within the city or without, since the damage which would be done by one class would be fully as great as that done by the other. I know of no supreme court decision holding that range stock is exempt from being impounded, if found running loose in an incorporated city, contrary to ordinance.

You are, therefore, advised that, in my opinion, it is within the power of an incorporated city or town to make ordinances in accordance with the power delegated to them by the section quoted above, and to impound range animals, if found at large contrary to such ordinances.

Yours very truly,

D. M. KELLY,
Attorney General.