

Railroad Commission—Jurisdiction of—Railroad Crossings, Within City Limits.

Railroad Commission has no jurisdiction over railroad crossings within corporate limits of cities and towns.

April 5, 1919.

Hon Railroad and Public
Service Commission,
Helena, Montana.

Gentlemen:

Replying to your letter of March 27th, asking whether or not your Commission has jurisdiction over railroad crossing in incorporated cities and towns, I have to advise as follows: Subdivision 12 of Section 3259 of the Revised Codes of Montana, of 1907, provides as follows:

“The city or town council has power to require the construction of crossings on the line of any railroad track or route within the city or town, the cars of which are propelled by steam or otherwise where the said track intersects or crosses any street, alley or public highway, or runs along the same, and to fix and determine the size and kind of such crossings and the grades thereof, and in case the owner of such railroad fails to comply with such requirements, the council may cause the same to be done, and it may assess the expense thereof against such owner, and the same constitutes a lien upon any property belonging to such owner with such city or town, and may be collected as other taxes.”

It is apparent from the above that city or town councils have full jurisdiction over railroad crossings within their corporate limits. I am unable to find any provision in the laws defining the powers and duties of your Commission which indicates any intent on the part of the Legislature to divest city and town councils of this power and to confer it upon your Commission. Therefore, in the absence of any such specific delegation of authority, I conclude that your Commission has no jurisdiction over railroad crossings within the corporate limits of cities and towns.

Respectfully,

S. C. FORD,

Attorney General.