

Executive Summary

The City of Dillingham faces a significant municipal infrastructure crisis that has been decades in the making. Despite having clear subdivision code requirements for street acceptance and maintenance responsibilities, the city has been operating under an inconsistent and legally problematic approach to road maintenance that directly contradicts its own municipal code.

The core problem: The city maintains some streets without formal acceptance agreements while refusing to maintain others, claiming they "are not city roads" - creating an arbitrary, unfair, and legally indefensible system that violates the city's own regulations.

The Current Crisis

Inconsistent Maintenance Practices

For decades, Dillingham has been maintaining various streets throughout the community without following the formal acceptance procedures required by **Municipal Code Section 17.23.090**, which clearly states:

"The city shall approve the quality and installation of all improvements which will be dedicated to the city... The city shall inspect all improvements to insure that the requirements of this chapter are met."

Meanwhile, **Section 17.23.100** explicitly requires formal written acceptance before the city assumes maintenance responsibility, stating that performance guarantees remain in place "until the city notifies the bank in writing of its acceptance of the required subdivision improvements."

The Legal and Financial Exposure

This inconsistent approach creates multiple serious problems:

1. Legal Liability

- The city may be maintaining streets it has no legal obligation to maintain, exposing taxpayers to unnecessary costs
- Conversely, the city may be refusing to maintain streets where it does have legal obligations
- Inconsistent treatment of similarly situated property owners creates potential equal protection violations

2. Financial Uncertainty

- Unknown scope of actual maintenance obligations makes budgeting impossible
- Property owners lack clarity on their rights and responsibilities
- Potential liability for past maintenance decisions made without proper authority

3. Code Compliance Failure

- Current practices directly violate the city's own subdivision regulations
- Undermines the integrity of the planning and development process
- Creates confusion for future subdivisions and development

Root Causes of the Problem

Historical Development vs. Modern Code

Many of Dillingham's streets were developed before the current comprehensive subdivision code was adopted in 1990 (**Ordinance 90-03**). The code establishes clear procedures for:

- **Preliminary consultation** (Section 17.07.010)
- **Construction plan approval** (Section 17.07.060)
- **Formal inspection and acceptance** (Section 17.23.090)
- **Performance guarantee release** (Section 17.23.100)

However, streets developed before 1990 never went through these procedures, creating a "grandfathered" category that the code doesn't explicitly address.

Lack of Systematic Street Inventory

The city appears to lack a comprehensive inventory of:

- Which streets have been formally accepted for maintenance
- Which streets are maintained without formal acceptance
- Which dedicated streets are not maintained
- The construction standards and condition of each street
- The legal basis for current maintenance decisions

Absence of Clear Acceptance Policy

While the code requires formal acceptance, it doesn't provide guidance for:

- How to handle pre-1990 streets
- Criteria for accepting existing streets that meet or don't meet current standards
- Process for declining to accept substandard streets
- Timeline for resolving the status of existing streets

Impact on Property Owners and Community

Unfair Treatment

Property owners face dramatically different outcomes based on arbitrary factors:

Group A: Owners on city-maintained streets without formal agreements

- Receive free city maintenance despite unclear legal obligation
- May have built to lower standards than current code requires
- Benefit from taxpayer-funded services without meeting current requirements

Group B: Owners on non-maintained dedicated streets

- Must privately maintain roads despite dedicating right-of-way to city
- May have met historical standards that were adequate when built
- Effectively subsidize Group A's maintenance through tax payments

Group C: Owners on formally accepted streets

- Followed proper procedures and met full code requirements
- Receive appropriate city maintenance
- Treatment consistent with code requirements

Economic Development Impacts

This inconsistency undermines economic development by:

- Creating uncertainty for new subdivisions about actual requirements
- Generating distrust in city development processes
- Making infrastructure planning and budgeting unpredictable
- Potentially deterring investment due to unclear municipal obligations

The Legal Framework for Resolution

Existing Code Provides the Foundation

The current municipal code actually provides the framework for resolving this crisis:

Formal Acceptance Process (Section 17.23.090)

- City has authority to inspect and accept qualified improvements
- Acceptance triggers maintenance responsibility
- Process can be applied to existing streets that meet standards

Exception Road Framework (Section 17.07.090.E)

- Provides model for streets where city accepts right-of-way but not maintenance
- Requires clear notification to property owners
- Establishes ongoing private maintenance responsibility

Vacation Authority (Chapter 17.15)

- Allows city to formally abandon streets it should not maintain
- Provides due process for affected property owners
- Transfers maintenance responsibility back to adjacent owners

Recommended Path Forward

Phase 1: Comprehensive Street Audit (6 months)

Street Inventory and Assessment

1. Create comprehensive database of all city streets including:
 - Legal status (dedicated, easement, fee simple)
 - Construction history and standards
 - Current maintenance practices
 - Property owner information
 - Connection to utility systems
2. Engineering assessment of each street:
 - Compliance with current construction standards (Chapter 17.19)
 - Structural condition and maintenance needs
 - Public safety and access requirements
 - Integration with overall street system
3. Legal analysis of each street:
 - Formal acceptance history
 - Subdivision approval documents
 - Performance guarantee status
 - Deed restrictions or covenants

Phase 2: Develop Acceptance Criteria and Policies (3 months)

Establish Clear Standards

1. Create objective criteria for street acceptance based on:
 - Structural adequacy and safety
 - Compliance with minimum standards
 - Public necessity and benefit
 - Integration with city street system
 - Available city resources
2. Develop formal acceptance procedures for existing streets:

- Inspection protocols
- Community notification requirements
- Property owner input process
- Appeal and review mechanisms
- 3. Create non-acceptance procedures for substandard streets:
 - Clear notification to property owners
 - Transition timeline for ending city maintenance
 - Resources and assistance for private maintenance
 - Option for property owners to upgrade streets for acceptance

Phase 3: Community Engagement and Legal Process (6 months)

Public Transparency and Input

1. Community meetings to explain the situation and proposed solutions
2. Individual notification to all affected property owners
3. Public comment period on proposed acceptance policies
4. City Council consideration and adoption of formal policies

Legal Documentation

1. Formal acceptance resolutions for streets meeting criteria
2. Non-acceptance notifications for substandard streets
3. Maintenance agreements where appropriate
4. Updates to city asset inventory and budget

Phase 4: Code Amendments and Ordinance Adoption (3 months)

Codify the Resolution

1. Amend municipal code to address existing street acceptance
2. Create clear procedures for future acceptance decisions
3. Establish maintenance standards and responsibilities
4. Adopt comprehensive street maintenance ordinance listing:
 - All city-maintained streets
 - All private-maintenance streets
 - Clear legal basis for each designation

Implementation Timeline

1. Immediate cessation of maintenance on non-accepted streets (with reasonable notice)
2. Gradual transition for affected property owners
3. Annual review and update process
4. Clear procedures for future street dedication and acceptance

Proposed Ordinance Framework

New Municipal Code Chapter: "Street Maintenance Responsibilities"

Section 1: Comprehensive Street Inventory

- Official listing of all city-maintained streets
- Legal basis for each street's acceptance
- Annual update requirements

Section 2: Acceptance Criteria for Existing Streets

- Objective standards for evaluating existing streets
- Formal acceptance procedures
- Community input requirements

Section 3: Non-Acceptance Procedures

- Clear notification requirements
- Transition timelines
- Property owner responsibilities
- Appeal process

Section 4: Ongoing Maintenance Standards

- City maintenance obligations for accepted streets
- Property owner obligations for non-accepted streets
- Emergency access requirements
- Utility access provisions

Section 5: Future Street Development

- Reaffirmation of existing subdivision code requirements
- Clear acceptance procedures for new streets
- Performance guarantee requirements
- Exception road procedures

Benefits of This Approach

Legal Compliance and Risk Reduction

- Brings city practices into compliance with municipal code
- Eliminates arbitrary and inconsistent treatment
- Reduces legal liability and financial exposure
- Creates defensible, objective decision-making process

Financial Clarity and Budgeting

- Clear understanding of actual maintenance obligations
- Predictable budget requirements for street maintenance
- Elimination of unaudited maintenance commitments
- Fair allocation of costs between public and private responsibility

Community Transparency and Fairness

- Equal treatment for all property owners
- Clear communication of rights and responsibilities
- Objective, consistent application of standards
- Public input on major policy decisions

Economic Development Benefits

- Clear, predictable development requirements
- Restored confidence in city planning processes
- Improved infrastructure planning and coordination
- Enhanced property values through certainty

Conclusion

The City of Dillingham's inconsistent street maintenance practices represent a significant municipal crisis that requires immediate, comprehensive action. The current system violates the city's own code, creates unfair treatment of property owners, and exposes the city to substantial legal and financial risks.

However, the existing municipal code provides the legal framework necessary to resolve this crisis. What's needed is the political will to conduct a comprehensive audit, develop fair and objective policies, engage the community in the solution, and codify the results in clear, enforceable ordinances.

The path forward is challenging but straightforward: audit all streets, apply consistent standards, formally accept appropriate streets, clearly designate private maintenance responsibilities for others, and codify these decisions in municipal ordinance. This approach will restore legal compliance, ensure fair treatment, provide budget clarity, and create a solid foundation for future development.

The cost of action is significant, but the cost of continued inaction - in legal liability, community distrust, and municipal dysfunction - is far greater. Dillingham must act decisively to resolve this decades-old problem and restore integrity to its infrastructure management.