



CITY OF PORTLAND

Planning & Urban Development

Performance Guarantee, Inspection Fee, and Infrastructure Financial Contribution Packet

A. Site Plan/Subdivision Performance Guarantees Required

Portland's Land Use Code requires all developers with approved site plan and/or subdivision applications to submit a performance guarantee to the City prior to the start of any construction or site improvements. The performance guarantee represents 100% of the total cost of site improvements, as determined by the City.

The code further requires developers to pay an inspection fee of 2% of the performance guarantee amount to the City for the administrative costs associated with inspecting construction activity to ensure that it conforms with plans and specifications.

(Portland's Land Use Code, Sections 14.11.3 and 14.11.4)

B. Cost Estimate Form and Inspection Fee

The performance guarantee covers major site improvements related to site plan and subdivision review, such as paving, roadway, utility connections, drainage, landscaping, lighting, etc. Please submit an itemized cost estimate form to determine the detailed costs of both public and private site improvements to the Planning office for review and approval. The cost estimate form (excel format) can be downloaded from the city's website here:

<http://portlandmaine.gov/costestimate> The approved amount on the Cost Estimate form is the amount to be covered by the performance guarantee and is the basis for calculating the 2% inspection fee.

C. Acceptable Types of Performance Guarantees

The accepted forms of a performance guarantee, covering the amount approved on the Cost Estimate form, must be one of the following options consistent with the attached templates, with **NO** exceptions. The templates and instructions be located on our website at: <https://www.portlandmaine.gov/2157/Performance-Guarantee>

1. A letter of credit from a bank/credit union
2. A deposit into a bank-held escrow account
3. A deposit into a City-held escrow account

NOTE: No land use application of any kind shall be processed, reviewed or issued, no signed subdivision plat shall be released or recorded, and no building permit of any kind shall be issued unless all fees have been paid and every aspect of the proposed development is in compliance with City Codes as determined by the Development Review Coordinator in the Planning office.

The developer is eligible to receive up to three reductions from the performance guarantee in a calendar year equal to the estimated cost of the completed improvements. In no case, however, shall any performance guarantee be reduced 1) in any line item where improvements remain to be completed; or 2) to a value which is less than the estimated cost of completing all remaining required improvements; or 3) to a value less than 10% of the Performance Guarantee. *(The Cost Estimate Form can also be used during the construction phase to submit reductions of fully completed site work items)*

At the conclusion of the project, the City will release 90% of the performance guarantee after the Development Review Coordinator determines that site improvements have been satisfactorily completed at the time of the final inspection. The City will then retain a 10% defect guarantee to cover the workmanship and durability of materials used in construction. The defect guarantee will be released one (1) year from date of acceptance, subject to the Development Review Coordinator inspecting the site and finding it in compliance with the approved site plan.

D. Housing Replacement Performance Guarantees

For those projects that are subject to Portland's Housing Preservation and Replacement Ordinance (Section 18.1) and have an approved plan, then a performance guarantee is required for housing replacement. An owner or developer must post a performance guarantee in the form of a letter of credit in the amount equivalent to the amount the applicant would have been required to contribute to the City's Housing Fund, if the applicant had chosen that option. The guarantee shall be valid for no more than three years, after which the full amount shall be provided to the City's Housing Trust Fund, if replacement units meeting the code do not have certificates of occupancy. The guarantee can be released upon the issuance of a certificate of occupancy for the replacement units. A suggested template for a Housing Replacement Performance Guarantee is included as Attachment 4.

E. Infrastructure Accounts

Contributions to infrastructure accounts may be required as part of the conditions of site plan approval. The contributions must be submitted prior to the issuance of any permits, unless stated otherwise in the approval. The form for submitted required contributions is included as Attachment 5.

F. Administrative Process for Submitting Performance Guarantee

- **Step 1 – Submit a Cost Estimate for Review**
Submit completed cost estimate form to the Planning Division for review and approval. Once approved, use this total amount as the performance guarantee amount in Step 2.

- **Step 2 – Drafting a Performance Guarantee**
Complete a draft of 1 of the 3 attached performance guarantee templates, inputting project specific information (Reference [Guide for Drafting](#) for help) into blank and bracketed areas, and submit to the Planning Division for final approval. Submit a draft to **planning@portlandmaine.gov** to

ensure fields are correctly entered. Once staff approved the draft, the applicant shall submit the official signed original performance guarantee document, which for option 1) or 2) must be on Bank/Credit Union letterhead with original signatures.

- **Step 3 - Submit Performance Guarantee, Inspection Fee, and Infrastructure Contributions** Submit the final original Performance Guarantee, the required inspection fee, and any infrastructure contributions (Include Attachment 6 form) to the Planning Division. The Planning Division will confirm that the final documents are accurate and acceptable.

- **Step 4 - Release of Recording Plat and Permits**
Only after the performance guarantee is issued, fees paid, and all other conditions of site plan approval and compliance are met, will the recording plat be released for recording at the Cumberland County Registry of Deeds and/or City permits issued.

Contact: Please email the Cost Estimate Form to Max Martin at mjmartin@portlandmaine.gov After the cost estimate is approved, all Performance Guarantees and Infrastructure Contributions can be submitted by mail to: **City of Portland Planning and Urban Development, 389 Congress Street, 4th Floor, Portland, ME 04101.**