**The local section of the land development and subdivision regulations that identifies financial guarantees for developments requiring public improvements will need to be amended to reflect the changes to the legislation. The template language provided reflects the minimum requirements and municipalities can be more permissive but cannot be more restrictive than the language provided below. The language in red is directly from state law and must be inserted into the existing section of the subdivision regulations that addresses construction and/or improvement guarantees. The existing section should be reviewed carefully with the template language for how to amend or replace language. The additional language in black represents optional sections for inclusion. Those sections are recommended for consideration by the municipality to accompany the required text and provide guidance to the applicant and municipality**.

**TEMPLATE SECTIONS FOR INSERTION INTO THE CONSTRUCTION AND/OR IMPROVEMENT GUARANTEES SECTION OF THE LAND DEVELOPMENT & SUBDIVISION REGULATIONS. THE SECTION CONTENT AND TITLES IN THE LOCAL REGULATIONS MAY DIFFER FROM HOW THEY ARE SHOWN HERE IN THIS TEMPLATE.**

* 1. *General provisions – Construction and/or improvement guarantees.*

1. Agreements for the completion of all required public improvements shall be approved by the [permitting authority] prior to final plan approval in the form of the following:
2. Completion of actual construction of all improvements;
3. Improvement guarantees; or
4. Combination thereof.
5. Where improvements are constructed without a financial guarantee, the work shall be completed prior to final approval of the development or subdivision plan. All construction shall be inspected by [appropriate town/city staff or agent(s)] [by/within timeframe]**[[1]](#footnote-1)** and approved under the direction of the administrative officer.**[[2]](#footnote-2)**
6. Improvement guarantees shall be in an amount and with all necessary conditions to secure for the [city/town] the actual construction and complete installation of all required improvements [by/within timeframe].**[[3]](#footnote-3)** The amount shall be based on actual cost estimates for all required public improvements and these estimates shall be reviewed and approved by the [permitting authority]. The [permitting authority] may fix the guarantee in a reasonable amount in excess of the estimated costs to anticipate future economic or construction conditions. The guarantee [may/shall] be reviewed and/or upgraded by the [permitting authority] on an [annual] basis.**[[4]](#footnote-4)**
7. The guarantee amount shall be established by the following procedure:**[[5]](#footnote-5)**
8. The Applicant shall submit a proposed estimate of costs with supporting materials prior to final plan approval;**[[6]](#footnote-6)**
9. The [public works department/city or town engineer] shall review the proposed estimate of costs and issue a recommendation to the [permitting authority] within [fifteen (15)] days of receipt;
   1. The recommendation shall be heard by the [permitting authority] at its next regularly scheduled meeting. The security shall be in the form of [LIST AT LEAST THREE ACCEPTABLE FORMS OF FINANCIAL INSTRUMENTS].**[[7]](#footnote-7)** Prior to release [or partial release] of guarantees by the administrative officer, the Applicant shall request an inspection by the [appropriate municipal officials/departments]. The [officials/departments] shall inspect the improvements and certify to the administrative officer that improvements have been satisfactorily completed and accepted. The administrative officer shall issue a letter of acceptance and report such release [or partial release] of the guarantee at the [permitting authority’s] next scheduled meeting.**[[8]](#footnote-8)**  Acceptance does not impose any duty upon the [city or town] to maintain or improve dedicated areas until the [city or town council] accepts the completed public improvements as constructed in compliance with the final plans.**[[9]](#footnote-9)**
   2. The developer shall be eligible for a partial release of the guarantees as stages of the improvements are completed, inspected and approved under the coordination of the [administrative officer] and reported to the [permitting authority].**[[10]](#footnote-10)**
   3. In the cases of developments and subdivisions which are being approved and constructed in phases, the [permitting authority] shall specify improvement guarantee requirements related to each particular phase.
   4. The [permitting authority] shall require maintenance guarantees to be provided for a one-year period subsequent to completion, inspection and acceptance of improvement(s), unless there are [extenuating circumstances].**[[11]](#footnote-11)** Such maintenance guarantee shall not exceed [ten (10%)]**[[12]](#footnote-12)** percent of the original guarantee amount, or the original cost of the public improvements if no guarantee was required. **[[13]](#footnote-13)**
   5. All required improvements, once inspected and approved, shall be accepted by the [city/town council]**[[14]](#footnote-14)** for maintenance and/or as part of the municipal system.

**Please Note:** RIGL §45-23-46(e) requires that the local regulations establish procedures for the setting of improvement guarantee amounts, for inspection of improvements, for acceptance of improvements by the municipality and for the release of the improvement guarantees to the applicant. This template provides example regulatory language related to these specific requirements. All municipalities should review the local regulations to ensure that these required topics are adequately addressed.

1. RIGL §45-23-46(b) specifies that inspections must be conducted by appropriate staff or agents *in a timely manner.* Municipalities may specify a timeframe for inspection in this section or provide reference to the local section identifying timeframes for inspections. [↑](#footnote-ref-1)
2. Reference local section identifying procedure for inspection of improvements. [↑](#footnote-ref-2)
3. RIGL §45-23-46(c) directs that this shall be a time period specified by the local permitting authority. [↑](#footnote-ref-3)
4. Local regulations may include provisions for the review and/or upgrade of the guarantees. [↑](#footnote-ref-4)
5. The law requires that the local regulations establish procedures for the setting of improvement guarantee amounts. The language in black in this section is provided as example language where regulations do not already contain these procedures. [↑](#footnote-ref-5)
6. The guarantee may be established at preliminary plan stage of review, if appropriate. [↑](#footnote-ref-6)
7. RIGL §45-23-46(d) requires the local regulations must provide at least three (3) acceptable forms of financial security and shall not limit the security to one specific form of the acceptable forms set forth in the regulations. Examples of these are certified check, bank book, letter of credit payable to the city/town, cashier’s check, cash, security bond, and performance bond. [↑](#footnote-ref-7)
8. The law requires that the local regulations establish procedures for the inspection of improvements. The language in black in this section is provided as example language where regulations do not already contain these procedures. [↑](#footnote-ref-8)
9. Note that “Final plan approval shall not impose any duty upon the municipality to maintain or improve those dedicated areas until the governing body of the municipality accepts the completed public improvements as constructed in compliance with the final plans” and should be addressed in the Regulations. R.I.G.L. § 45-23-39(e)(6) [↑](#footnote-ref-9)
10. RIGL §45-23-46(e) allows the option for local regulations to include provisions for the partial release of the guarantees in stages. [↑](#footnote-ref-10)
11. RIGL §45-23-46(g) allows the municipality to require maintenance guarantees for a one-year period, unless there are extenuating circumstances. Municipalities may define the types of extenuating circumstances that apply to this section. [↑](#footnote-ref-11)
12. This can be less than ten percent (10%), but no more. [↑](#footnote-ref-12)
13. If this section is enacted by the municipality the ten percent limit of the original guarantee amount for maintenance guarantees is required by state law. [↑](#footnote-ref-13)
14. See fn. 8. [↑](#footnote-ref-14)