

14.065 - OCCUPANCY BOND. (Cr. Ord. #19-08)

(1) **BOND REQUIRED.** Every person, corporation or organization requesting a Building Permit pursuant to this Chapter for a commercial or industrial structure subject to the occupancy permit requirements of section 14.06 shall, before a building permit is issued, deposit with the Village a bond in the form of cash or an irrevocable letter of credit approved as to form by the Village Attorney, in an amount as provided in subsection (3) below, to ensure and guarantee to the Village that the building or structure for which the building permit is requested shall not be occupied before an occupancy permit shall have been issued by the Village.

(2) **DEFINITIONS.**

- (a) *Occupy.* A commercial or industrial building or structure shall be considered to be occupied for the purposes of this ordinance, if it reasonably appears to the Building Inspector that personal property, other than that necessary for the construction of the building or structure has been moved into the building or structure, or that any person, at any time, has used or is using the building in a manner in which it is intended to be used upon completion.
- (b) *Occupancy Permit.* Occupancy permit shall mean an occupancy permit issued by the Building Inspector of the Village of Germantown, as provided in sections 14.05(10) and 14.06.
- (c) *Commercial Building or Structure.* For purposes of this section, a Commercial Building or Structure shall be one constructed on a parcel which is zoned with one or more of the following zoning classifications: PD Planned Development District, B-1 Neighborhood Business District, B-2 Community Business District, B-3 General Business District, B-4 Professional Office District, and B-5 Highway Business District.
- (d) *Industrial Building or Structure.* For purposes of this section, an Industrial Building or Structure shall be one constructed on a parcel which is zoned with one or more of the following zoning classifications: PD Planned Development District, M-1 Limited Industrial District, M-2 General Industrial District, M-3 Special Use Industrial District, M-4 Mineral Extraction District, and HIA Highway Interchange Area District.

- (3) **BOND.** The bond provided in subsection (1) above, in the form of a cash deposit or irrevocable letter of credit in the amount of \$20,000.00 for a commercial or industrial building or structure, shall be required prior to the issuance of any building permit. This bond shall be held by the Village until the Building Inspector, the Village Engineer and the Village Planner shall determine and certify upon inspection of all work, that state and local codes, approved permits, approved plans and conditions of such approvals are fully complied with, and until issuance of an occupancy permit for the building or structure. The bond shall be released and returned upon issuance of the final occupancy permit, less any outstanding costs and fees, including all inspection fees, invoiced by the Village to the owner/developer and remaining unpaid. Failure to obtain a final occupancy permit, or occupancy of the building or structure prior to issuance of a final occupancy permit, or in appropriate cases in the discretion of the Village, a temporary occupancy permit, shall result in forfeiture of the deposit, which shall be in addition to any unpaid costs and fees or penalties or forfeitures sought or assessed for violation of the Village Code.
- (4) **CUMULATIVE REMEDIES.** Nothing herein shall be construed to supplant or supersede any other remedy available to the Village for illegal occupancy, but shall be in addition and cumulative to any other such remedy.

Village of



Germantown

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Planning Department

Jeffrey W. Retzlaff, AICP

Village Planner & Zoning Administrator

N112 W17001 Mequon Road P.O. Box 337

Germantown, WI 53022-0337

Telephone: (262) 250-4735

Website: www.village.germantown.wi.us

FAX: (262) 253-8255

E-mail: jretzlaff@village.germantown.wi.us

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MEMORANDUM

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**TO:** Letter of Credit Providers

**FROM:** Jeff Retzlaff, Village Planner & Zoning Administrator

**DATE:** July 10, 2010

**RE:** Building Permit/Occupancy Bond  
Sample Letter of Credit (LOC) Statement

Although financial institutions have different formats for the Letters of Credit (LOC) that they issue, the Village of Germantown requires that each LOC contain a statement indicating the specific purpose for the LOC.

Pursuant to Ordinance Section 14.065 of the Village Code (Occupancy Bond), the Village accepts irrevocable LOC's as financial surety for the following:

Building Permit/Occupancy Bond. Occupancy Bonds are required at the time a building permit is issued for certain types of residential dwelling construction and new or expanded commercial and industrial buildings. Consequently, an LOC for this purpose must include the following or a similar statement:

*"This Letter of Credit is issued as an Occupancy Bond to insure and guaranty to the Village of Germantown that development of the building or structure for which a building permit is requested by the Applicant(s) shall comply with the terms and requirements of Section 14.065(3) and that: (1) said building shall not be occupied before an occupancy permit is issued by the Village of Germantown; and/or (2) all state and local codes, approved permits and plans, and all conditions of said permits and plan approvals have been deemed complete and complied with by the Village of Germantown regarding development of the subject property located at {insert property address} , Village of Germantown, Washington County, Wisconsin."*