



# City of Bay Minette

## Special Exceptions – Zoning Ordinance Regulations

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**A Special Exception allows certain uses of property that may not typically align with zoning regulations but are deemed compatible with surrounding areas under specific conditions. The following information provides details on how to apply, the review process, and applicable regulations to ensure your application meets the necessary criteria for approval.**

**14.04.02.02 Special Exceptions - Conditions Governing Applications; Procedures.** To hear and decide only such Special Exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this Ordinance; to decide such questions as are involved in determining whether Special Exceptions should be granted; and to grant Special Exceptions with such conditions and safeguards as are appropriate under this Ordinance, or to deny Special Exceptions when not in harmony with the purpose and intent of this Ordinance. A Special Exceptions shall not be granted by the Board of Adjustment unless and until:

- a. A written application for a Special Exceptions is submitted indicating the section of this Ordinance under which the Special Exception is sought and stating the grounds on which it is requested. The application shall be submitted no less than thirty (30) days prior to the Planning Commission meeting at which it is to be reviewed. The application shall be considered by the Planning Commission, which shall make a recommendation to the Board of Adjustment with regard to approval, approval with conditions or disapproval. A public hearing shall not be required before the Planning Commission. The Planning Commission's recommendation is not binding on the Board of Adjustment, it is merely advisory.
- b. Upon receipt of a recommendation from the Planning Commission, the Board of Adjustment shall schedule a meeting at which to consider the application and shall give notice at least fifteen (15) days in advance of a public hearing. The owner, or their agent, of the property for which Special Exception is sought, adjacent property owners and any other parties identified that may have interest in the Special Exception request, shall be notified by registered/certified mail. Notice of such hearings shall be posted on the property for which Special Exception is sought, at the City Hall, and in one public place at least fifteen (15) days prior to the public hearing.
- c. The public hearing shall be held at the date and time designated in the notice. Any party may appear in person, or by agent or attorney.
- d. The Board of Adjustment shall make a finding that is empowered under the section of this Ordinance described in the application to grant the Special Exception, and the granting of the Special Exception will not adversely affect the public interest.
- e. The Board shall review requests for Special Exceptions under the following criteria and relief granted only upon the concurring vote of four (4) Board members:
  1. Compliance with the Comprehensive Plan.
  2. Compliance with any other approved planning document.
  3. Compliance with the standards, goals, and intent of this Ordinance.
  4. The character of the surrounding property, including any pending development activity.
  5. Adequacy of public infrastructure to support the proposed development.
  6. Impacts on natural resources, including existing conditions and ongoing post-development conditions.
  7. Compliance with other laws and regulations of the City.
  8. Compliance with other applicable laws and regulations of other jurisdictions.
  9. Impacts on adjacent property including noise, traffic, visible intrusions, potential physical impacts, and property values.
  10. Impacts on the surrounding neighborhood including noise, traffic, visible intrusions, potential physical impacts, and property values.
  11. Overall benefit to the community.
  12. Compliance with sound planning principles.
  13. Compliance with the terms and conditions of any zoning approval; and

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14. Any other matter relating to the health, safety, and welfare of the community.

- f. Limitation on resubmission. An application for the same parcel of land shall not be submitted within 365 days of the final decision of the Board of Adjustment. Any application may be withdrawn without prejudice prior to the opening of the hearing by the Board of Adjustment. All notices to withdraw shall be submitted in writing.

### 14.05 APPEALS FROM ACTION OF THE BOARD OF ADJUSTMENT

Any party aggrieved by any final judgment or decision of the Board of Adjustment may, within fifteen (15) days thereafter, appeal therefrom to the circuit court or court of like jurisdiction, by filing with the Board a written notice of appeal specifying the judgment or decision from which appeal is taken. In case of such appeal, the Board shall cause a transcript of the proceedings in the cause to be certified to the court to which the appeal is taken and the cause in such court be tried de novo.