

## Special Uses and Conditional Uses (Special Exceptions)

The Board of Adjustment has the power to “hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance” (Iowa Code §§ 335.15 (counties) and 414.12 (cities)).

The terms “special use,” “use exception” and “conditional use” are frequently found in zoning ordinances, and are generally synonymous with the term “special exception.”

Zoning districts are defined within the zoning text. In each district, two broad classes of land uses are explicitly identified: (1) permitted uses, which are those listed by the ordinance as being allowed by right in any location, and (2) special exceptions, which are listed by the ordinance as being permissible only at the discretion of the zoning board of adjustment. Special exceptions are generally uses that are unique and slightly out of character with permitted uses. With conditions imposed by the board of adjustment, an appropriate special exception is one that can be made to fit into its surroundings.

In order to be granted a special exception, the applicant carries the burden of proving to the board that, given the imposition of conditions, the requested use will comply with the standards established in the ordinance. If the use cannot be made to fit, then it is within the board’s discretion to deny the special exception. A board of adjustment’s power to grant special exceptions, therefore, must be governed by adequate guidelines. The zoning ordinance includes general criteria for granting special exceptions. The criteria typically state something to the effect that, with the imposition of conditions, the special exception will be:

- Compatible with the principles and objectives of the plan.
- Compatible with uses permitted in the zoning district under which it is regulated.
- Compatible with existing or planned uses of nearby properties.
- Will not endanger public health or safety.

The ordinance typically includes specific criteria that must be met, in addition to the general criteria, before certain types of special exceptions will be approved. Home occupations, cell towers and some specific commercial uses often carry such specific criteria that must be met.

Commonly imposed conditions of approval include buffering, hours of operation, site improvements or submission of special site plans (such as landscaping or parking). Conditions carry the same force of law as the ordinance; that is, a violation of a condition is subject to enforcement proceedings just as violation of any provision of the ordinance itself.

