

ORDINANCE NO. 731

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEST BRANCH BY TRANSFERRING THE RESPONSIBILITIES OF THE ZONING BOARD OF ADJUSTMENT INTO A NEW CHAPTER OF SAID CODE OF ORDINANCES.

WHEREAS, the current West Branch City Code delineates in Chapters 22-28 of the City Code the duties and responsibilities of all West Branch Boards and Commissions with the exception of the Zoning Board of Adjustment; and

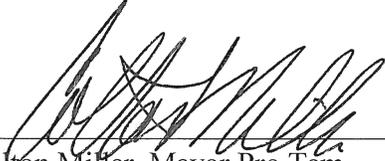
WHEREAS, the Zoning Board of Adjustment of the City of West Branch, Iowa, believes that a consistent and uniform City Code is desirable.

NOW, THEREFORE, BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF WEST BRANCH CEDAR COUNTY, IOWA:

1. The Code of Ordinances is hereby amended by incorporating "Attachment A" as Chapter 29 Zoning Board of Adjustment.
2. Section 165.20 Board of Adjustment, Section 165.21 Expenses of the Board of Adjustment, and 165.22 Powers of the Board are hereby deleted.
3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.
4. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or any part, section, or provision thereof not adjudged invalid or unconstitutional.
5. This amendment to the ordinance shall be in full effect from and after its publication as by law provided.

Passed and approved this 3rd day of August, 2015.

First Reading:	June 29, 2015
Second Reading:	July 20, 2015
Third Reading:	August 3, 2015



Colton Miller, Mayor Pro Tem

Attest:



Matt Muckler, City Administrator/Clerk

CHAPTER 29
ZONING BOARD OF ADJUSTMENT

29.01 BOARD OF ADJUSTMENT. A Board of Adjustment is hereby established as provided in Chapter 414 of the State Code of Iowa, as amended, the members of which shall be appointed by the Council for staggered terms of five (5) years. The Board of Adjustment shall consist of five (5) members, none of whom shall hold an elective office or other official position in the City. The members of the Board of Adjustment shall be residents of the City representing the public at large and shall not be involved in the business of purchasing or selling real estate. The members of the Board shall be removable for cause by the Council upon written charges and after public hearing. A vacancy shall be filled by the Council for the unexpired term of any member who resigns, dies, or is removed. The Board shall meet each January to select a Chairperson and Vice Chairperson from its members, and a Secretary who may, but need not, be a member of the Board.

29.02 RULES - MEETINGS - GENERAL PROCEDURE. The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this chapter. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. Such chairperson, or in the chairperson's absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

29.03 COMPENSATION. All members of the Board shall serve without compensation, except their actual expenses which shall be subject to the approval of the Council.

29.04 EXPENSES OF THE BOARD OF ADJUSTMENT. The Board shall have authority to expend such sums as may be appropriated by the Council.

29.05 POWERS AND GUIDELINES OF THE BOARD. The Board of Adjustment shall have the following powers:

1. Administrative Review. To hear and decide appeals where it is alleged by the appellants that there is error in any order, requirement, permit, decision, determination or refusal made by the zoning officer or other administrative official

in the carrying out or enforcement of any provision of this chapter, and for interpretation of the Zoning Map.

2. **Vote Required.** The concurring vote of three (3) members of the Board shall be necessary to reverse or modify any order or decision of an administrative official.

3. **Special Exceptions.** To hear and decide applications for special exceptions as specified in this chapter and for decisions on any special questions upon which the Board of Adjustment is specifically authorized to pass.

4. **Variance.** To hear and decide applications for variance from the terms of this chapter because of unnecessary hardship. Before any variance is granted, all of the following conditions must be shown to be present.

A. Conditions and circumstances are peculiar to the land, structure or building and do not apply to neighboring lands, structures or buildings in the same district.

B. Strict application of the provisions of this chapter would deprive the applicant of reasonable use of the land, structure or building equivalent to the use made of neighboring lands, structures or buildings in the same district and permitted under the terms of this chapter.

C. The peculiar conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of this chapter.

D. The use to be authorized by variance will not alter the essential character of the locality.

5. Financial disadvantage to the property owner shall not constitute conclusive proof of unnecessary hardship within the purposes of zoning.

6. The Board does not possess the power to permit a use not generally or by special exception, permitted in the district involved.

7. In granting a variance or Special Exception, the Board may attach thereto any conditions and safeguards it deems necessary or desirable in furthering the purposes of this chapter. Violation of any of these conditions or safeguards shall be deemed violation of this chapter.

8. The effective date of a variance is thirty days after granted by Zoning Board of Adjustment. The City Council may remand a decision to grant a variance to the Zoning Board of Adjustment for further study. The effective date of the variance in this case is delayed for thirty days from the date of the remand.

29.06 CONFLICTING RULES, ORDINANCES, STATUTES AND OMISSIONS

In the case of conflicting rules, ordinances, statutes, or omissions in the West Branch City Code, the rules outlined in the Iowa Code shall take precedence.