



Ordinance O22-001

Introduced By: Matthew Kirkland

Date: February 17, 2022

Ordinance O22-001 to Amend Chapter 66 of the Town of Leland Code of Ordinances - Building Separation and Setbacks

Be It Ordained:

1. That the Code of Ordinances, Town of Leland, North Carolina, is amended by modifying the Leland Town Code to read as shown in Exhibit A.
2. That if this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to that end the provisions of this ordinance are declared to be severable.
3. That if it be determined that any other Town Ordinance or any part of any other Town Ordinance is in conflict with this Ordinance, said conflicting Ordinance shall be deemed repealed and of no effect and the provisions of this Ordinance shall prevail.

Adopted by Town Council on this 17th day of February, 2022.

Brenda Bozeman, Mayor

Sabrena Reinhardt, Town Clerk

Approved as to Form:

Brian E. Edes, Town Attorney

Exhibit A

Sec. 66-163. - Area, yard and height requirements.

The following table and notes sets forth the area, yard and height requirements for the zoning districts:

	R-20	R-15	RMH	C-1	C-2	C-3	ID	O&I	M-F	PUD	R-6
Minimum lot size* (sq. ft.)	20,000	15,000	15,000	6,000	15,000	43,560		10,000	10,000		6,000/ 15,000 (note 4)
Minimum lot width at front setback line (ft.)	100/ 66 cul-de-sac	70/ 46 cul-de-sac	90	75	75	100	40	75	100		60/ 40 cul-de-sac
Minimum front yard setback (ft.)	30	30	30	25	25	50	15	25	30	25/15 (note 6)	25
Minimum side yard width (ft.)	7.5	7.5	7.5	7.5	7.5	7.5	5 (note 10)	7.5	7.5	3 (note 7)- <u>5</u>	7.5
Minimum rear yard depth (ft.)	15	15	15	10	20	20	5 (note 10)	20	30	7.5	10
Maximum height of structure (ft.)	40	40	40	40	40	40	55	40	40	40	40

*Or larger as required by the county sanitarian. Final determination is based on decisions by the county sanitarian for approved sewer systems.

No building shall encroach upon the right-of-way of a publicly maintained street, a proposed thoroughfare or collector street shown in an officially adopted thoroughfare plan, or a private vehicular or pedestrian way in common ownership.

Note 1. *Variance for prior lots of record.* Notwithstanding the other setback provisions of this chapter, a building or structure may be constructed and occupied by one family as a single-family residence on any lot recorded prior to the adoption of the ordinance from which this chapter is derived and meeting all of the requirements of the county sanitarian and maintaining a minimum side yard of 15 feet, a front yard of 30 feet and a rear yard of 30 feet.

Note 2. *Corner lots and open storage.*

- (1) *Primary structures on corner lots.* On a corner lot in a residential district area or commercial district area, a side yard setback consisting of a minimum distance of 20 feet shall be maintained between any building and the side street except in R-6 Residential District Medium Density, M-F Multifamily District and PUD Planned Unit Development District where 20 feet shall be reduced to 12 feet. Such requirement shall not be applied so as to reduce the building width of a residentially zoned corner lot of record at the time of passage of the ordinance from which this chapter is derived to less than 40 feet, where this requirement cannot reasonably be complied with as determined by the board of adjustment.
- (2) *Open storage.* In the C-1 and C-2 districts, there shall be no open storage as an accessory use. In the C-3 district, open storage as an accessory use shall be permitted, provided it is enclosed on all sides by a fence of not less than six feet in height. All display items essential to a retail establishment that are permitted in C-1 and C-2 districts are allowed in open storage. Junk, as defined in section 66-4, is not allowed in open storage. In the Innovation District, open storage as an accessory use shall be permitted provided that the storage area is screened to provide complete opacity using a Level 1 buffer as described in Figure 12B in section 66-254. Canopy and understory trees shall be species from the landscape species list in the Administrative Manual and shall be a minimum of six feet in height at time of planting.

Note 3. *Height restrictions/modifications.* In addition to the height limitations listed in the table of area, yard, and height requirements, any building in a C-1, C-2, C-3, and M-F district with five or more housing units per building, and any approved commercial area in a PUD district may be increased in height provided that additional side and rear yards are increased according to the requirements below. The maximum height of any building shall be 55 feet. From ten to 20 feet above the maximum allowable height in a C-1, C-2, C-3, M-F, and any approved commercial area in a PUD as noted above an additional ten feet of yard area (rear and sides) must be provided for each ten feet or portion thereof of additional height.

Note 4. *Minimum lot size for the R-6 district.* Minimum lot size shall be 6,000 square feet where a lot is served by public water and sewer and 15,000 square feet where a lot is not served by both public water and sewer.

Note 5. *Additional requirements for churches in the R-6 district.* Standards for churches in the R-6 district shall be as follows:

- (1) Minimum lot size: one acre;
- (2) Minimum lot width and front setback line: 200 feet.

Churches in the R-6 district that are permitted non-conforming uses due to the lot size may be expanded, provided there is a lot width at the front setback line of at least 120 feet and all required off-street parking is provided.

Note 6. Single-family dwellings, duplexes, triplexes, and townhouses may have a 15-foot minimum front setback. All other primary structures shall have a 25-foot minimum front setback.

~~Note 7. Building separation in PUD. Minimum building separation between primary structures on separate lots, shall be ten feet and shall be measured from the face of structures, provided, that roof overhangs, eaves and projections of 18 inches or less from the face of the structure shall be allowed to project into the setback area.~~

Note ~~8~~7. *Additional lot size and setback requirements for the M-F district.*

- (1) Single-family homes in the M-F district may only be constructed on lots that are a minimum of 5,000 square feet and have a lot width of not less than 50 feet (40 feet on cul-de-sac).
- (2) The following setbacks shall apply to a single-family home constructed in a M-F district:
 - a. Front setback: 20 feet;
 - b. Side setback: five feet;
 - c. Rear setback: ten feet.

Note ~~9~~8. *Major public utilities; water.*

- (1) All major utilities-water as defined in section 66-4 are exempt from height restrictions and setbacks set forth in this section.
- (2) In no case shall a major public utility-water be located closer than 50 feet from any lot line, public right of way or easement.

Note ~~10~~9. *Additional setbacks for buildings in the Innovation District.* Buildings in the Innovation District shall be set back from any residential zoning district or property with a residential use a distance of one foot for every foot of building height.

Sec. 66-314. - Performance multifamily developments.

- (e) Building separation. Building separation shall ~~comply with the North Carolina State Building Code be a minimum of 10 feet between structures.~~

Sec. 66-315. - Performance development standards for R-6 district.

- (b) For the subdivisions meeting the requirements set forth in subsection (a) of this section, a density limit of seven units per acre shall apply in lieu of individual minimum lot sizes. Setbacks and lot criteria shall be as follows:
 - (1) Principal buildings on the periphery of a performance residential development shall be setback no less than 25 feet from the adjoining property line. The 25-foot setback requirement shall be removed if the neighboring property is zoned R-6.
 - (2) Front yard setback shall be a minimum of 15 feet.

- (3) ~~Side yard setback shall be a minimum of 5 feet. Minimum building separation between primary structures on separate lots, shall be ten feet and shall be measured from the face of structures, provided, that roof overhangs, eaves and projections of 18 inches or less from the face of the structure shall be allowed to project into the setback area. In no case shall a structure be located closer than three feet to any lot line.~~
- (4) Minimum lot width at front setback line for detached single-family homes shall be 40 feet.