

**ORDINANCE NO. 3414**  
**INTRODUCED BY: MAYOR JOSEPH P. SCARPELLI ON BEHALF OF THE BOARD OF COMMISSIONERS**  
**INTRODUCED ON: JANUARY 15, 2019**  
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**ORDINANCE NO. 3414**

**AN ORDINANCE TO AMEND AN ORDINANCE CODIFIED IN THE CODE OF THE TOWNSHIP OF NUTLEY, CHAPTER 700, ENTITLED ZONING, PARTICULARLY THE FOLLOWING ARTICLES:**

**ARTICLE III, TERMINOLOGY, DEFINITIONS**  
**ARTICLE V, GENERAL REGULATIONS**  
**ARTICLE VII, USE REGULATIONS, MIXED USE**  
**ARTICLE IX, GARDEN APARTMENTS**  
**ARTICLE XIII, PARKING SPACES AND LOADING BERTHS**  
**ARTICLE XVIII, ADMINISTRATION**

**BE IT ORDAINED** by the Board of Commissioners of the Township of Nutley, in the County of Essex, New Jersey as follows;

**Article III, § 700-3 (B), Definitions.**

**AMEND**

**MIXED USE BUILDING** — A building containing more than one use such as professional and business offices, restaurants and bars which serve food (first floor only), service establishments (personal and household); retail stores; and residential (not permitted on the first floor), as outlined in the Permitted Use for each District as per Article V. General Regulations

**Article V, § 700-15. Permitted uses in B-1 Zoning District.**

**Amend**

Subsection A. - Professional offices.

Subsection B. – Business offices.

Subsection K. – Mixed use buildings for commercial and residential uses subject to section 700:40.

**Article V, § 700-16. Permitted uses in B-2 Zoning District.**

**DELETE**

Subsection I. –Mixed use buildings for commercial and residential uses.

**Article V, § 700-17. Permitted uses in B-3 Zoning District.**

**AMEND**

Subsection J. Mixed-use buildings for commercial and residential uses subject to Section 700:40.

**Article V, § 700-18. Permitted uses in B-3A Zoning District.**

**AMEND**

Subsection A (10) – Mixed-use buildings for retail, service and office uses (Residential Prohibited).

**Article V, § 700-19. Permitted uses in B-4 Zoning District.**

**AMEND**

Subsection A (12) – Mixed-use commercial and retail (Residential Prohibited).

**Article VII, § 700-40. Mixed-Use.**

**AMEND**

A "mixed-use" is the use of a building, multi-stories in height, for residential and business uses, the residential use of which shall be permitted on the second and third floors of mixed-use buildings. The first floor of a building shall be determined by "street level entry" to the building regardless of topographical conditions. Mixed-use buildings containing residential uses shall only be permitted in the B-1 and B-3 districts in accordance with Sections 700-15 and 700-17. A mixed-use building with a residential use is strictly prohibited in any B3-A or B-4 Districts, which permits a mix of nonresidential mixed uses only. A mixed-use building is permitted in accordance with the following regulations and restrictions:

- A. The required off-street parking in conjunction with a mixed-use building shall be equal to the sum of the required off-street parking in Article XIII per each use.
- B. The maximum density for a mixed-use building is established in the Schedule of Regulations as to Bulk, Height and Other Requirements (Section 700 Attachment 3).
- C. A minimum of 30% of the first floor of a mixed-use building shall be non-residential interior space based on the footprint of the largest floor.
- D. The minimum size of a one-bedroom unit shall be 925 square feet. A two-bedroom unit shall be a minimum of 1,175 square feet.
- E. Every room area of 69 square feet or more (except the kitchen, the living/dining room, and bathroom) shall be considered as a bedroom, regardless of the building plan designation.
- F. Where more than 50% of the street frontage between intersecting streets or between an intersecting street and the Township boundary line is developed with business uses, the front yard requirement shall be equal to the average front yards of the existing business buildings between the intersecting streets, or between an intersecting street and the Township boundary line, on the same side of the street calculated to the nearest foot. However, in no case shall a building be located closer than three feet to the right-of-way line of Franklin Avenue.

- G. Where less than 50% of the street frontage between intersecting streets, or between an intersecting street and the Township boundary line, is developed with business uses, the front yard requirement shall be three feet from the right-of-way line of Franklin Avenue and 10 feet from the right-of-way line of any other street.

## **ARTICLE IX – Garden Apartments**

### **ADD**

#### **§ 700-49.1. Permitted Zoning Districts**

Garden Apartments shall not be permitted in any District except as presently exists in the R-3 and M-1 District. For the purposes of zoning, apartments in existence as of the year 2018, shall be considered a permitted use.

## **ARTICLE XIII – Parking Spaces and Loading Berths, Section 700-91, Subsection A**

### **ADD**

Mixed-Use  
(Residential  
Component)

There shall be 1.8 parking spaces for a one-bedroom unit and an additional 0.5 parking space for each additional bedroom.

## **Article XVIII, § 700-118. Interpretation and application of provisions**

### **AMEND**

In interpreting and applying the provisions of this chapter, if there is a conflict between Zoning Ordinance sections, the more restrictive of the two requirements limiting development shall govern and shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, prosperity and general welfare.

## **ATTACHMENT 3 - Schedule of Regulations as to Bulk, Height and Other Requirements Business Districts**

### **AMEND SCHEDULE**

**Schedule of Regulations as to Bulk, Height and Other Requirements  
Business Districts**

District	Type of Use	Minimum Lot Size				Minimum Yard Dimensions				Maximum Height		Maximum Lot Coverage (percent)	Surface Coverage Maximum Impervious Coverage (percent)	Additional Requirements
		Area (feet)	Width (feet)	Depth (feet)	Density (Dwelling Units per Acre)	Front <sup>2</sup> (feet)	Rear (feet)	1 Side (feet)	Both Sides (feet)	Stories	Feet			
B-1	Neighborhood Business	5,000	50	100	N/A	20	25	6	10	2	25	50	80	
	Mixed- Uses	5,000	50	100	17.42	20	25	6	10	2	25	50	80	See §700-40
B-2	Residential above business	5,000	50	100	17.42	10 <sup>1</sup>	25	6	10	2	25	50	80	
	Neighborhood business	5,000	50	100	N/A	10 <sup>1</sup>	25	6	10	2	25	50	80	
B-3	Downtown Business	3,000	30	100	N/A	3	10; if adjacent to R Zone 30	None required, except height of building if side yard is adjacent to a R Zone minimum of 10 feet	0; 4 for each side yard if provided	3	40	50	90	
	Mixed- Uses	3,000	50	100	28	3	10; if adjacent to R Zone 30	None required, except height of building if side yard is adjacent to a R Zone minimum of 10 feet	0; 4 for each side yard if provided	3	40	50	90	See §700-40

District	Type of Use	Minimum Lot Size				Minimum Yard Dimensions				Maximum Height		Maximum Lot Coverage (percent)	Surface Coverage Maximum Impervious Coverage (percent)	Additional Requirements
		Area (feet)	Width (feet)	Depth (feet)	Density (Dwelling Units per Acre)	Front <sup>2</sup> (feet)	Rear (feet)	1 Side (feet)	Both Sides (feet)	Stories	Feet			
B-3A	Downtown Business	5,000	50	100	N/A	3	10; if adjacent to R Zone 30	0; 4 if provided	0; 4 for each side yard if provided	3	40	70	90	
	Mixed- Uses	5,000	50	100	N/A	3	10; if adjacent to R Zone 30	0; 4 if provided	0; 4 for each side yard if provided	3	40	70	90	See §700-40
B-4	Nonresidential and Mixed- Uses	5,000	50	100	N/A	20	10; if adjacent to R Zone 30	1/2 building height (10 feet minimum); height of building is adjacent to R Zone	Height of building 10-20 feet <sup>2</sup>	2	25	60% for buildings and storage areas	85%	See §700-40

**ATTACHMENT 4 - Schedule of Regulations as to Bulk, Height and Other Requirements Industrial Districts**

**AMEND SCHEDULE**

*700 Attachment 4*

**Schedule of Regulations as to Bulk, Height and Other Requirements Industrial Districts**

District	Type of Use	Minimum Lot Size				Minimum Yard Dimensions				Maximum Height		Maximum Lot Coverage (percent)	Surface Coverage Maximum Impervious Coverage (percent)
		Area (square feet)	Width (square feet)	Depth (feet)	Density (Dwelling Units per Acre)	Front (feet)	Rear (feet)	1 Side (feet)	Side Other (feet)	Stories	Feet		
M	Manufacturing, warehouses, greenhouses, printing and auto service	10,000	100	100	N/A	20	Height of building; 50 if adjacent to R Zone	10	20	4	50	50%	N/A
M-1	Nonresidential and Mixed-uses	10,000	100	100	N/A	20	Height of building; 50 if adjacent to R Zone	10	20	4	50	50%	N/A
	Garden Apartment Group	43,560	150	100	20	35	Height of building; 50 if adjacent to R Zone	15	30	2.5	30	25%	N/A
M-O	M uses and office building	43,560	150	150	N/A	Height of building, minimum 20	Height of building minimum 20; 50 if adjacent to R Zone	10	20	8	100	50%	N/A
M-2	Nonresidential and Mixed-uses	10,000	100	100	N/A	20	Height of building; 50 if adjacent to R Zone	10	20	4	50	50%	N/A

**Notes:**

- <sup>1</sup> Larger yard is to be located adjacent to side street line on corner lots.
- <sup>2</sup> If over 50% of the frontage in the B-2 Zone on one side of the street between intersecting streets or between an intersecting street and a Township boundary line is developed with business uses, the front yard requirement shall be equal to the average of the front yard depths of such business uses, but no less than three feet.

**BE IT FURTHER ENACTED** that all other terms and conditions and locations in Chapter 700 shall remain as heretofore set forth in the Code of the Township of Nutley, except where such a reading would not give meaning to and further the application of this amendment. In such case and in such event, the terms and conditions shall have a meaning consistent with the intent of this amendment; and

**BE IT FURTHER ENACTED** that the within ordinance shall become effective after passage and publication, pursuant to law.

**Notes:**

- <sup>1</sup> Larger yard is to be located adjacent to side street line on corner lots.
- <sup>2</sup> If over 50% of the frontage in the B-2 Zone on one side of the street between intersecting streets or between an intersecting street and a Township boundary line is developed with business uses, the front yard requirement shall be equal to the average of the front yard depths of such business uses, but no less than three feet.