

surface which is treated to prevent the raising of dust. Such loading facilities shall, before being used, be constructed of crushed stone, gravel, asphalt, concrete or brick and shall include provisions for drainage facilities. In Industrial **zones**, a crushed stone or gravel surface shall be permitted.

The **loading spaces** required shall be located in the interior side or rear yard unless such space or spaces are removed from the street line a minimum distance of 15 metres.

The **loading space** requirements referred to herein shall not apply to any **building** in existence at the date of passing of this By-law so long as the **gross floor area**, as it existed at such date, is not increased by more than 300 square metres. If an addition is made to the **building** or **structure** which increases the **gross floor area**, then additional **loading spaces** shall be provided as required by the provisions of the **loading space** Requirement Table for such addition.

### 3.14 MINIMUM OPENING ELEVATION

No habitable **building** located east of the Rainy River dam shall have any **building** opening below the elevation of 339.5 m CGD.

### 3.15 MULTIPLE ZONES ON ONE LOT

Where a **lot** is divided into more than one **zone** under the provisions of this By-law, each such portion of this said **lot** shall be used in accordance with the **zone** provisions of this By-law for the applicable **zone** as if it were a separate **lot**.

### 3.16 NON-CONFORMING USES

The provisions of this By-law shall not apply to prevent the **use** of any **existing lot, building or structure** for any purpose prohibited by this By-law if such **existing lot, building or structure** was lawfully used for such purposes, prior to the effective date of this By-law and provided that the **lot, building or structure** continues to be used for that purpose. Where the **use** ceases to exist for a period of one year, the **use** will be deemed to have been discontinued. A **non-conforming use** shall be considered abandoned:

- a) when the **use** has been discontinued for one year; or
- b) when the characteristic equipment and furnishings of the nonconforming **use** have been removed and have not been replaced within one year; or
- c) when it has been replaced by a conforming **use**; or
- d) when re-establishment has not been commenced within two (2) years of the date of destruction or damage caused by fire or natural disaster.

The exterior of any **building** or **structure** which was lawfully used prior to the effective date of this By-law for a purpose not permissible within the **zone** in which it is located, prior to the effective date of this By-law, shall not be enlarged, extended more than 0.2 metres, reconstructed or otherwise structurally altered, unless such **building** or **structure** is thereafter to be used for a purpose permitted within such **zone**.

The interior of any **building** or **structure** which was lawfully used for a purpose not permissible within the **zone** in which it is located prior to the effective date of this By-law, may be reconstructed or structurally altered, in order to render the same more convenient for the **existing** purpose for which such **building** or **structure** was lawfully used.

Nothing in this By-law shall prevent the strengthening or restoration to a safe condition of any **existing**, legal **non-conforming building** or **structure** or part thereof, provided that the strengthening or restoration does not increase the **building** height, size or volume or change the **existing**, lawful use of such **existing building** or **structure** unless these changes are necessary to provide for floodproofing of the **building**.

The provisions of this By-law shall not apply to prevent the **erection** or **use**, for a purpose prohibited by this By-law, of any **building** or **structure**, the plans for which have, prior to the date of passing of this By-law, been approved by the **Municipality**, so long as the **building** or **structure**, when **erected**, is used and continues to be used for the purpose for which it was **erected**.

### **3.17 NON-COMPLYING LOTS, BUILDINGS AND STRUCTURES**

Where a **building** or **structure** is located on a **lot** having less than the minimum **frontage** and/or **lot area**, and/or having less than the minimum **setback** and/or **side yard** and/or **rear yard** required by this By-law, the said **building** or **structure** may be enlarged, reconstructed, repaired and/or renovated provided that:

- a) the enlargement, reconstruction, repair and/or renovation does not further reduce a **front yard**, and/or **side yard** and/or **rear yard** and/or **lot coverage** less than the minimum required by this By-law;
- b) the **building** or **structure** is being used for a purpose permissible within the **zone** in which it is located; and,
- c) all other applicable **Zone Provisions** of this By-law are complied with.

Nothing in this By-law shall apply to prevent the reconstruction of any permitted **building** which is accidentally damaged or destroyed by causes beyond the control of the owner. Such permitted **building** may be reconstructed in accordance with the previously **existing** standards, even if such did not conform with one or more of the provisions of this By-law, but the non-compliance may not be further increased provided that the reconstruction occurs within 12 months of the damage being done.

Where a **lot**, having a lesser **lot area** and/or **lot frontage** than required herein, existed on the date of passing of this By-law, or where such a **lot** is created by a **public authority** such smaller **lot** may be used and a permitted **building** or **structure**, may be **erected**, altered and/or used on such smaller **lot** provided that all other applicable **Zone Provisions** of this **By-law** are complied with. All vacant islands and **existing** vacant **lots** of record on islands must have an area of at least 0.5 ha above the normal or controlled high water mark.

A **lot** which has been increased in size following the passage of this By-law may also be used in accordance with this provision and the resultant **lot** shall be deemed to comply with all of the provisions of this By-law and all zone provisions applicable to any existing building on the benefiting **lot** shall be deemed to comply with the provisions of this By-law.<sup>1</sup>

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<sup>1</sup> Amendment 3/14-B – Sept. 8, 2014 – to correction to compensate for new definition of height