

## **SECTION 1 - INTRODUCTION**

Under the authority of *The Planning and Development Act, 2007 and amendments (The Act)* and in conjunction with Bylaw No 008- 2013, the Official Community Plan (OCP) of the Resort Village of Wakaw Lake, the Council of the Resort Village of Wakaw Lake, in the Province of Saskatchewan, in open meeting, hereby enact as follows:

### **1.1 Title**

This Bylaw shall be known and may be cited as The Resort Village of Wakaw Lake Zoning Bylaw.

### **1.2 Purpose**

The purpose of this Zoning Bylaw is to control the use and development of land and to assist in implementing the Official Community Plan (OCP) so as to provide for the health, safety, amenities and general welfare of the residents of the Resort Village of Wakaw Lake.

### **1.3 Scope**

All development within the limits of the Resort Village of Wakaw Lake shall be in conformity with the provisions of this Bylaw.

### **1.4 Relevance to Current Cottage Owners**

Any lawful use of land and any existing building (or any building lawfully under construction) that does not conform to the regulations at the time that this Bylaw is approved, is permitted according to Section 3.1.2.

### **1.5 Severance**

If any part of this Bylaw, including anything shown on the Zoning District Map, is declared to be invalid for any reason, by an authority of competent jurisdiction, the validity of the Bylaw as a whole, or any other part, Section or provision of this Bylaw shall not be affected.

### **1.6 Provincial Interests**

Development shall incorporate "insofar as is practical" applicable provincial land use policies and statement of provincial interests (*The Statements of Provincial Interest Regulations Chapter P-13.2 Reg 3 (effective March 29, 2012)*). So far, applicable common planning interests to the province and this Resort Village include: heritage and culture, recreation and tourism, shoreland and water bodies, source water protection, and intermunicipal cooperation as identified in Section 1.5 of the Official Community Plan.

## **SECTION 2 - ADMINISTRATION**

### **2.1 DEVELOPMENT OFFICER AND PERMITS**

#### **2.1.1 Development Officer**

Unless an other person is appointed by resolution of the Council, the Village Administrator of the Resort Village of Wakaw Lake shall be the Development Officer responsible for the administration of this Bylaw.

#### **2.1.2 Development Permits**

- a) Except as provided in Section 2.1.3, no person shall undertake a development or commence a use unless a development permit is obtained.
- b) A development permit cannot be issued in contravention of any of the provisions of this Bylaw except as provided in an appeal pursuant to *The Act*
- c) A Development Permit is not valid unless it conforms with this Bylaw and *The Act*.
- d) The application to the Development Officer for the Development Permit shall be made in the "Form A" as adopted or amended by resolution of Council, together with any other information needed to assess the application in relation to the regulations of this Bylaw and shall include the following minimum information:
  - i) Name of the owner applicant or his agent, engineer, architect, or contractor authorized in writing by the registered owner of the property
  - ii) Legal description (lot, block, and registered plan number)
  - iii) Existing and proposed use
  - iv) Two copies of a layout or site plan indicating:
    - All building and setback dimensions from the property line
    - Landscaping, parking areas and driveway
    - Ingress and egress from the site/property

- Proposed municipal services and locations
  - Confinement of drainage to open sides of the site
  - Topographic information and the 1:500 flood elevation line
- v) Council may require submission of geotechnical report as stated in Section 2.3.5 (Hazard Lands).

A building permit shall not be issued unless a development permit, where required in this Bylaw, has also been issued.

- f) Issue of Permit - Upon completion of the review of an application for development, the Development Officer shall:
- i) For a PERMITTED USE, issue a development permit where the application conforms to the Zoning Bylaw, incorporating any special regulations, performance standards or development standards authorized by this Bylaw.
  - ii) For a PERMITTED USE, issue a refusal, where the application does not comply with a provision or regulation of this Bylaw. One copy of the layout or site plan shall be returned along with the reason for refusal and advising the applicant of any right of appeal.
  - iii) The permit or notice of refusal shall be in "Form B" as adopted or amended by resolution of Council.
- g) If the development or use authorized by a development permit is not commenced within twelve (12) months from the date of issue of a permit, the permit is deemed void unless an extension has been granted prior to its expiry.
- h) A development permit may be granted for an additional 12 month period by the Development Officer.
- i) The application to the Development Officer for a *Lakeside Development and Shoreline Structures Permit* shall be made in the "Form C" as adopted or amended by resolution of Council, together with information needed to assess the application in relation to the regulations of this Bylaw and shall include the information outlined in Section 5 - REGULATIONS FOR *Lakeside Development and Shoreline Structures*
    - i. Notice of decision, and where applicable, conditions for approval shall be included on "Form C".

### 2.1.3 Compliance with the Development Permit

- a) It is the owner's or developer's responsibility to notify the Resort Village when the development commences in order to ensure that development occurs in compliance with this Zoning Bylaw. Therefore, the owner or developers shall notify the municipality when the site is marked, and before excavation or foundations are formed.
- b) Inspection shall be undertaken at three stages of development:
- i) Before the grading and levelling of lots (Section 3.4.1) with foundation (offsets) corner stakeout markers in the ground (or stakeout markers) and outer limit of site clearing (Section 6.2.3) suitably marked (colored plastic ribbons on stakes and or trees and shrubs).
  - ii) Before the foundations are formed.
  - iii) After framing is completed.
- c) Municipality shall carry out the inspection within 72 hours of the above notification(s). The costs associated with these inspection shall be the developer's responsibility.

### 2.1.4 Development not Requiring a Permit

Although a development permit is not required, the owner applicant or his agent must comply with the requirements of the applicable Zoning Bylaw and Village regulations and bylaws, for the following.

- a) The maintenance of a public utility by the Municipality or crown or private corporation,
- b) The construction of a public utility by the Municipality,
- c) The installation of a public utility on any street or other public right-of-way by the Municipality,
- d) Any municipal facility installed and operated by the Municipality,
- e) Maintenance and repairs of any building or structure that does not include structural alterations.
- f) The installation of fences less than 1.8 m (6 ft) in height,
- g) The construction of single storey accessory buildings under 9 m<sup>2</sup> (97 ft<sup>2</sup>). NOTE: members of PBCOC do require permits under PBCOC regulations (section 4.3.1.2),
- h) Hot tub installation as long as it meets the requirements of the bylaw,
- i) Outdoor lighting as long as it meets the requirements of the bylaw,

- j) The erection of a sign (for residential uses) which conforms to Section 3.3.10, and
- k) A driveway approach with a top width not greater than 20 ft (6.10 metres) where inspection by the Development Officer or by authorized Village staff determines no drainage issue requiring a *culvert or other development*.
- l) Planting of any tree or shrubs on private property.

#### **2.1.5 Referral to Council**

Where the development officer submits a permit application to Council for interpretation of the bylaws (Official Community Plan Bylaw or the Zoning Bylaw) or for special conditions therein, the applicant shall be informed of the date and time of the meeting when Council will consider the matter.

#### **2.1.6 Referral to Department of Public Health**

A copy of all approved development permit applications involving installation of water and sanitary services shall be forwarded to the local office of the Saskatchewan Department of Health by the Development Officer.

#### **2.1.7 Referral to Other Agencies**

Depending on the nature of application (installation of shoreline structures), to assure compliance with other legislation and regulations, the development officer may refer applications to other agencies.

### **2.2 DISCRETIONARY USE APPLICATIONS**

#### **2.2.1 Application Procedure for Discretionary Use**

- a) The owner of the property (or other person with written consent of the owner) may apply to the Development Officer for a DISCRETIONARY USE, and shall, in addition to the form prescribed in Section 2.1.2 (d), provide a written description of the proposed development, the intended use and operations, structures to be located on the site, required municipal services, and provide any other information that the Development Officer and or Council determines is necessary for Council to fully review the proposed development.
- b) The Development Officer shall review the DISCRETIONARY USE application for conformance with this Bylaw and any other applicable policies and regulations, and shall pass on the application and all other information submitted by the applicant, with a written report on the results of the review, to Council.
- c) Council shall review the application and the report from the Development Officer and where appropriate may request comments or information from other government agencies to assist Council's review of the application.
- d) After Council has received requested comments or information from other government agencies, the Development Officer shall set a date, time and location for the Council meeting to consider the application.
- e) The Development Officer, pursuant to Section 55 (2) of *The Planning and Development Act, 2007*, shall notify the assessed owners of property within a minimum of 91 metres (250 feet) of the boundary of the applicants property by registered mail, place notification posters on the applicant's property, and post a notice on the Resort Village website. This public notice of DISCRETIONARY USE application shall be given and mailed at least four (4) weeks prior to the date of the Council meeting where the application shall be considered.
- f) In addition to subsection 2.2.1 (e), an onsite notification poster shall be prepared by the Development Officer and posted on the site by the applicant and must remain posted until the application is considered by Council.
- g) The notice of DISCRETIONARY USE application, described in subsection 2.2.1 (e), shall describe the use applied for, the location of the use and date, along with the time and location for the Council meeting where the application shall be considered by Council.

#### **2.2.2 Discretionary Use Evaluation Criteria**

Council shall apply the following criteria when considering an application for DISCRETIONARY USE:

- a) The proposed discretionary uses, discretionary forms of development, and associated accessory uses must be contained within the list of discretionary uses of a zoning district.
- b) Any proposed buildings and structures shall conform to the development standards and applicable provisions of the Zoning Bylaw.
- c) In the opinion of Council, the proposed discretionary use shall not create unnecessary

disturbance to abutting residential areas due to noxious or offensive emissions including gas, vapour, odour, noise, dust, glare or light, traffic, diminished storm water management, or threat of groundwater contamination.

- d) In the opinion of Council, the proposed discretionary use will be of financial, social, and or environmental benefit to the Resort Village.

### **2.2.3 Terms and Conditions for Discretionary Use Approvals**

In approving a DISCRETIONARY USE application to minimize land use conflicts, Council may prescribe specific development standards or conditions with respect to the use or form of development related to:

- a) Site drainage of storm water and groundwater protection.
- b) Height, shape, arrangement and location of proposed buildings with respect to buildings on adjacent properties and their views to the lake (See: Section 7.1.4.2 - Hillside Protection Area overlay district ).
- c) Special development standards regarding "yard requirements" to reduce conflict with neighbouring uses.
- d) Accessibility to, number of and location of off-street parking sites and loading areas.
- e) Access to the site shall be from the front of the property (no access shall be allowed to the site through any adjacent public reserve land).
- f) Type of vehicles allowed for recreational uses (no construction and farm equipment shall be allowed).
- g) Type and volume of traffic and impact on traffic flows on adjacent roadways.
- h) Safeguards to control noxious or offensive emissions including gas, vapour, odour, noise, dust, glare or light, traffic, diminished storm water management, or threat of groundwater contamination.
- i) Any treatment given, as determined by Council, to aspects including landscaping, screening to buffer adjacent properties, lighting, outdoor signs, and parking.
- j) Consistency with any provincial land use policies and statements of provincial interest.

### **2.2.4 Notice of Decision**

Council shall make a decision on a DISCRETIONARY USE APPLICATION, by resolution, that approves or refuses the discretionary use on that site. The resolution shall instruct the Development Officer to:

- a) Issue a development permit incorporating any specific development standards set forth by Council, where the development shall comply with the standards of this Bylaw, subject to the limitations of the Act.
- b) Issue a development permit incorporating any specific development standards set forth by Council, where the applicant submits an amended application so that development shall comply with the standards of this Bylaw, subject to the limitations of the Act.
- c) Issue a notice of refusal to the applicant, stating the reasons for the refusal, and advising the applicant of any right of appeal that he or she or both may have.
- d) The permit or notice shall be in "Form B" as adopted or amended by resolution of Council.

### **2.2.5 Limitation on Discretionary Use Approvals**

- a) The Council approved DISCRETIONARY USE application is valid for a period of 12 months from the date of approval. The approval shall not be valid when the proposed use or proposed form of development has not commenced within that time. When a prior approval is no longer valid, the Development Officer shall advise the applicant and Council.
- b) Council may direct that an extension of the DISCRETIONARY permit be granted for an additional 12 month period by the Development Officer.
- c) The discretionary use approval shall no longer be valid if:
  - i) An approved discretionary use form of development ceases to operate for a period of six (6) months or more, or,
  - ii) The use ceased and was replaced by an other use, or
  - iii) The applicant applies to increase the specifically approved intensity of use.

### 2.2.6 Conditional Discretionary Use Permits

An application for a **CONDITIONAL DISCRETIONARY USE PERMIT** concerning certain accessory buildings for secondary living quarters ('granny suite') shall be regulated by Section 2 (Discretionary Use Application Procedure; Discretionary Use Evaluation Criteria; and Terms and Conditions of Discretionary Use Approvals) of this Bylaw. Such a **CONDITIONAL USE** permit may be issued by Council provided that:

- a) There is a demonstrated need and potential for continued use of the structure for the purpose stated.
- b) No commercial or home occupation activities are conducted on the site; or the expansion of existing bed and breakfast lodging, nor home occupation.
- c) The building has an evident use of which is subordinate to that of a principal building or use situated on the same site.
- d) The accessory building shall be maintained in a compatible manner with the adjacent residential uses and does not present a hazard to public health, safety, general welfare, and the environment (See Section 2.2.3).
- e) The Building used for the conditional use, is of a portable nature, such that it can be easily removed when no longer needed for the conditional use for which it was permitted.

### 2.2.7 DISCRETIONARY MUNICIPAL PERMIT for Lakeside Development and Shoreline Structures

- a) An application for an annual **DISCRETIONARY TEMPORARY USE PERMIT (MUNICIPAL PERMIT)** for *Lakeside Development and Shoreline Structures* shall be regulated as described in Section 5 - Regulations for Lakeside Development and Shoreline Structures.
- b) Permit process and decision criteria are described in subsection 5.4 of Section 5.
- c) Council's decision (approved or not approved, and the permit) concerning *Shoreline Structures and Shoreline Development* shall be on "Form C".
- d) Such a Municipal Permit may be issued by Council. The permit or notice of decision shall be in "Form C" as adopted or amended by resolution of Council.

### 2.2.8 Time Limited Discretionary Uses

Where Council has approved a discretionary use for a limited time as provided in the Bylaw, and that time has expired, that use of land or use of buildings on that property shall cease until such time as Council gives a new discretionary use approval and a new development permit is issued.

## 2.3 ZONING BYLAW AND FUTURE DEVELOPMENT

### 2.3.1 Amendment of the Zoning Bylaw

- a) Where a development proposal is not identified within the Bylaw as a **PERMITTED** or a **DISCRETIONARY USE**, the development is considered prohibited.
- b) In such a case, the proponent/applicant may apply, upon payment of the required fee, to the Development Officer for a Zoning Bylaw amendment.
- c) The proposed development is then presented to Council at its next council meeting for review and decision, and should the development be deemed desirable for the municipality a resolution shall be passed authorizing the Development Officer to prepare a draft amendment.
- d) Council must then undertake steps outlined in accordance with Sections 207 - 212 of The Act with respect to public notice and public participation in the adoption of a bylaw to amend this Zoning Bylaw.
- e) The applicant shall pay a fee equal to the cost to the municipality associated with the public advertisement.
- f) Decision criteria for Amendment of the Zoning Bylaw shall be as outlined in the Official Community Plan under Section 3.4 - Guiding Land Use and Development Decisions.
- g) If Council deems that the amendment being applied for is not in the public interest, convenience, general welfare or in keeping with good planning practice, they shall proper notice of their rejection of the application.

### 2.3.2 Revocation of Decision

- a) Where an approved development is not being developed in accordance with the provisions of this Bylaw, or with the standards and conditions specified in the development permit, Council may revoke or suspend the development permit.

- b) The development permit shall not be reissued or reinstated until all deficiencies have been corrected.

### 2.3.3 Development Appeals

- a) Council in accordance with Sections 26 – 28 and 49 and 213 – 217 of *The Act*, shall appoint a Development Appeals Board of the Resort Village of Wakaw Lake.
- b) Where an application for a PERMITTED USE has been refused, the applicant shall be advised of the right to appeal to the Development Appeals Board of the Resort Village of Wakaw Lake pursuant to Section 219 of *The Act*.
- c) Where an application for a DISCRETIONARY USE or development has been approved with prescribed development standards, the applicant shall be advised of his/her right to appeal any development standards or conditions considered excessive, to the Development Appeals Board.
- d) The applicant shall within thirty (30) days of the date of Council's approval, file a written notice of intention to appeal to the Development Appeals Board (Section 58 of *The Act*).
- e) There remains no appeal against the approval or denial by the Council of the DISCRETIONARY use itself in accordance with Sections 57 and 58 of *The Act*.
- f) When appealing to the Development Appeals Board, and hearing an appeal, the provisions of *The Act* shall apply.
- g) An application for a Development Permit shall be deemed to be refused when a decision thereon is not made within forty (40) days after the receipt of the application in its complete and final form by the Development Officer. An appeal may then be made as though the application had been refused at the end of 40 days.

### 2.3.4 Minor Variances

All variances shall be subject to the conditions and procedures identified in section 60 of *The Act*.

- a) The zoning bylaw may authorize the council or the development officer to vary the requirements of the zoning bylaw, subject to the following conditions:
- b) A minor variance may be granted for the following only:
  - i) the minimum required distance of a building from a lot line; and
  - ii) the minimum required distance of a building to any other building on the lot.
- c) The maximum amount of minor variance on dimension shall not exceed 10% of the bylaw requirement of this Zoning Bylaw and the development shall conform to the Zoning Bylaw with respect to the use of land.
- d) The relaxation of the Zoning Bylaw shall not injuriously affect neighbouring properties.
- e) No minor variance shall be granted for a discretionary use or form of development, or in connection with with an agreement to rezone pursuant to Section 69 (Contract Zoning) of *The Act*; or if it would be inconsistent with any provincial land use policies or statements of provincial interest.
- f) An application for a minor variance to the Zoning Bylaw shall be made to the Development Officer in a form prescribed by the Development Officer, and shall include the application fee.
- g) On receipt of an application form for a minor variance the Development Officer may:
  - i) approve the minor variance;
  - ii) approve the minor variance and impose terms and conditions on the approval; or
  - iii) deny the minor variance.
- h) Terms and conditions imposed by the Development Officer shall be consistent with the general development standards in this Zoning Bylaw.
- i) If a minor variance is approved, with or without terms and conditions, the Development Officer shall provide written notice to the applicant and and to the assessed owners of property having a common boundary with the applicant's land that is the subject of the approval.
- j) The written notice shall contain:
  - i) a summary of the application for minor variance;
  - ii) reasons for and an effective date of the decision;
  - iii) indicate to an adjoining owner has 20 days after the receipt of the notice to lodge a written objection with the Council or the Development Officer, which when received will result in the approval of the minor variance being revoked; and

- iv) where there is an objection and the approval is revoked, the applicant shall be notified of the right to appeal to the Development Appeals Board by registered mail or by personal services.
- k) A decision approving a minor variance, with or without terms and conditions, does not take effect until 23 days from the date of notice was sent by registered mail; or 20 days from the date of notice was served by personal services.
- l) If an assessed owner of a property having a common boundary with the applicant's land objects in writing to the Development Officer within the period prescribed in section 10) above, the approval is deemed revoked and the Development Officer shall notify the applicant in writing:
  - of the revocation of approval; and
  - of the applicant's right to appeal the revocation to the Development Appeals Board within 30 days after receiving the notice.
- m) If an application for a minor variance is refused or approved with terms and conditions, the applicant may appeal to the Development Appeals Board within 30 days after the date of that decision.
- n) A registry of the granting of all such variances, with location and all details, shall be maintained by the development officer.

### **2.3.5 Hazard Lands**

- a) Where, in the opinion of Council, a proposed development or subdivision is located on land considered to be potentially hazardous, including but not limited to flooding, spring outcrops, hillsides prone to slumping, earth movement or other instability or is otherwise unsuitable or hazardous for the proposed use, or where, owing to bad natural drainage, steep slopes, or other similar features, soft soils, and shore land erosion, Council may require that before a development permit may be issued, the applicant shall submit a geotechnical report on the proposed development to be completed and approved by a Registered Professional Geotechnical Engineer in the Province of Saskatchewan.
- b) The report must assess the hazard land, indicate the suitability of the land or lots for development with respect to the following where relevant:
  - i) A suitable topographic map of the proposed area of development and elevation of the development;
  - ii) The potential for flooding up to a 1 in 500 flood elevation involving a building (See: Section 7.1.4.1 Safe Building Elevation), or where not involving a building, a lower elevation for the proposed use. ;
  - iii) The potential for slope instability, shoreline recession, soil erosion, safe building sites, or the potential for irreparable alteration of the natural resource base;
  - iv) The suitability of the land for the proposed development or subdivision of land;
  - v) Proposed action for mitigation such as hazard avoidance, prevention, mitigation or other measures that may be specified as conditions in the development permit.
- c) Council shall refuse a permit for any development for which, in Council's opinion, the proposed actions are inadequate to address the adverse effects, or will result in excessive costs of municipal services or in problems related to managing such services.

### **2.3.6 Heritage Resources**

Saskatchewan Heritage Resources Branch has indicated a high potential exists for unrecorded archaeological sites in SW 26-42-26-W2 and on similar terrain in close proximity to the lake. Should future developments be planned for this area, the Resort Village must submit detailed construction plans to the Heritage Branch for additional screening.

## **2.4 FEES AND ENFORCEMENT**

### **2.4.1 Register**

The Development Officer shall maintain a register of records of all permits issued pursuant to this Bylaw, along with discretionary use applications received, approved and denied.

### **2.4.2 Fees for Amendment of the Zoning Bylaw**

Where a person requests Council to amend the Zoning Bylaw that person shall pay to the Resort Village of Wakaw Lake a fee equal to the costs associated with the administration and the public advertisement of the proposed amendment in accordance with the [Zoning Administration Fee Bylaw](#).

### 2.4.3 Enforcement, Offences and Penalties

- a) Inspection may be carried out by the Development officer as set out in Section 242 of The Act.
- b) *Any person who contravenes or refuses or neglects to comply with this zoning bylaw is guilty of an offence and liable on summary conviction to the penalties as provide for in Section 243 of The Act.*

### 2.4.4 Licenses, Permits, and Compliance with Other Bylaws

- a) Development must comply with the provisions of this Bylaw, whether or not a permit has been issued for the development.
- b) Nothing in this Bylaw shall exempt any person from complying with the requirements of a Building Bylaw or any other bylaw in force within the Resort Village of Wakaw Lake or from obtaining any license, permission, permit, authority or approval required by this or any other bylaw of the Resort Village of Wakaw Lake.
- c) Where provisions in this Bylaw conflict with those of any other municipal, provincial or federal regulations, the higher or more stringent regulations shall prevail.

## **SECTION 3 – REGULATIONS: BUILDINGS, LOTS AND ACCESSORIES**

### **3.1 Buildings**

#### **3.1.1 Established Building Lines**

- a) Concerning existing buildings, where a building has been in place before the effective date of this bylaw and does not meet the minimum setback requirements, refer to Section 3.1.2.
- b) Concerning new construction, where a front building line in a residential district has been established by existing buildings in a block of abutting lots and is less than the specified front yard requirement, the required front yard may be reduced by Council for NEW CONSTRUCTION according to the following principles:
  - i) Where the new building is to be constructed on a corner site, it shall not be located further into the required front yard than a legal principal building on the abutting interior site.
  - ii) Where the building is to be constructed on an interior site it shall not be constructed further into the required front yard than the average of the encroachments of principal buildings into the required front yard in a block.

#### **3.1.2 Non-Conforming Uses, Buildings and Sites**

Any lawful use of land, an existing building, or of any building lawfully under construction that do not conform to these regulations at the time this Bylaw is approved shall be permitted and regulated, subject to Sections 88 - 93 inclusive of *The Act*.

- a) The adoption or amendment of this Bylaw does not affect any non-conforming building, non-conforming use or non-conforming site.
- b) Continuation of non-conforming use or intensity of use, either permitted or discretionary, may be continued if the use conformed to the Bylaw that was in effect at the time of the development and has not been discontinued for 12 consecutive months, and any future use of the land or building must conform to any current zoning bylaw.
- c) A non-conforming use must not be increased in intensity, area or volume within a building, or on the parcel it occupies, nor relocated in a building, moved to any other location, or moved to another portion of the parcel on which it is located except where such action will bring the use into conformity with this Bylaw.
- d) Structural alterations may only be made to a building or the part of a building where the use is conforming.
- e) Non-conformity of a building or site may continue to be used, maintained and repaired in their present form.
- f) If the cost of repair is more than 75% of the construction cost to replace the damaged non-conforming building above its foundation, the building is to be repaired in accordance with the zoning bylaw.
- g) The use of land or the use of building is not affected by the change or intended change of ownership, tenancy, or occupancy of the land or building.
- h) Where an existing structure or lot falls into non-conformity by reason of conversion from the Imperial System of Measurement to the Metric System of Measurement solely from such change, such existing structure or lot shall not be deemed non-conforming.