

CITY OF HENDERSON

ARTICLE 700: NONCONFORMING SITUATIONS AND PROJECTS

Section 701: Continuation of Nonconforming Situations and Completion of Nonconforming Projects.

Nonconforming situations that were otherwise awful on the effective date of this ordinance may be continued, subject to the restrictions and qualifications set forth in this article.

Nonconforming projects may be completed only in accordance with the provisions of Section 707.

Section 702: Nonconforming Lots

702.1: Area Nonconformity

Except as provided under subsection 702.3 below, where an undeveloped nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot cannot meet the minimum required lot size as set out in Article 300 of this ordinance, then if the lot is in a district that allows single family residential use, the may be developed for said use as if it were conforming, or, if the lot is less than 6,000 sq. ft. in area and is in a district that does not allow said use, but it does allow parking, signage or recreational use outside a structure, as a use, then the lot may be developed for any of said uses as if it were conforming, or, if the lot is 6,000 sq. ft. or more in area and is in a district that does not allow single family residential use, but it does allow parking, signage, office or recreational use outside a structure, as a use, then the lot may be developed for any of said uses as if it were conforming.

702. 2: Other Dimensional Nonconformity

Except as provided under subsection 702.3 below, where the use proposed for an undeveloped nonconforming lot is one that is conforming in all respects except that a dimensional requirement in Article 300 of the ordinance cannot be complied with, then the permitting authority may allow deviations from the applicable aforementioned requirement if it finds that the proposed extent or intensity of the use is reasonable for the lot, that the property could not reasonably be developed without the deviations, and that the property can be developed as proposed without significantly and adversely impacting adjacent properties of the public health or safety

702.3 Exceptions to Continuing Nonconformities

If on the date this ordinance becomes effective, or any date thereafter, an undeveloped nonconforming lot adjoins another lot under the same ownership, then neither the owner of the nonconforming lot or his successors in interest may take advantage of the provision of this section if by combining the lots a conforming situation could be created.

Section 703: Extension or enlargement of Nonconforming Situations

703.1 Extension of Nonconforming Situation Prohibited

Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. In particular, physical alteration of structures of the placement of new structures on open land is unlawful if such activity results in:

CITY OF HENDERSON

- (a) an increase in the total amount of space devoted to a nonconforming use; or,
- (b) greater nonconformity with respect to dimensional restrictions

Where a nonconforming situation exists, the volume, intensity, or frequency of use of property may be increased and the equipment or processes used at a location may be changed provided these or similar changes amount only to change in the degree, as opposed to kind, of activity.

703.2: Completion of Buildings under Construction

A nonconforming use may be extended throughout any portion of a completed building which at the time the use became nonconforming, was manifestly designed or arranged to accommodate the use. However, subject to Section 707, a nonconforming use may not be extended to additional buildings or to land outside the original building.

703.3: Completion of Non-structural Uses of Land

A nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot may be expanded to the boundaries of the lot where the use was substantially established over a significant portion of the lot at the effective date of this ordinance

703.4: Nonconformities Involving Several Structures on One Lot.

Whenever two or more single family dwelling units were erected on a lot prior to the effective date of this ordinance, and where a subdivision of the lot will not result in a conforming lot for each dwelling unit, then nothing in this ordinance shall prevent the uses or sale of any house on the tract provided each dwelling unit is provided its own lot and, either, as many conforming lots as possible are created, or, the degree of nonconforming for all lots created in minimized.

Section 704. Repair, Maintenance and Reconstruction.

704.1: Repairs Encouraged

Repairs to and routine maintenance of property where nonconforming situations exist and not amounting to a replacement of the structure are permitted and encourage. Except as provided below, if a structure is proposed to be repaired or improved to the extent that the costs of repair or improvement exceed the fair market value of the damage structure, then the repair or replacement shall not be permitted.

704.2: Exception for Repair or Replacement of Residential Dwelling Units In the event a residential dwelling unit, other than a mobile/manufactured home, is partially or totally damaged by wind, water or fire, or is ordered demolished by the City, that residential dwelling unit may be rebuilt or replaced by another unit of similar type and size as long as the replacement does not create new nonconformities or increase the extent of existing nonconformities and provided the new unit complies with the Building Code. In addition, a zoning permit and building permit for the new unit must be applied for and approved within six (6) months of the damage, destruction or demolition. (Amended 11/28/94 and January 24, 2000)

CITY OF HENDERSON

704.3: Exception for Mobile Homes and HUD Code Homes in the Extra- Territorial Area

Any nonconforming mobile home and conforming HUD Code home may be replaced with a conforming HUD Code home may be replaced with a conforming HUD Code home if such structure is partially or totally destroyed by wind, fire, or an act of God provided the new unit complies with the Building Code. In addition, a zoning permit and building permit for the new unit must be applied for and approved within six (6) months of damage or destruction.

704.4: Nonconforming Mobile/Manufactured Homes located in the Extra- Territorial Jurisdiction

Nonconforming mobile/manufactured homes located in the extra-territorial area prior to the effective date of the adoption of the extra-territorial Zoning Jurisdiction (May 22, 1995) may be replaced within ninety (90) days of removal with another Class "A" Or Class "B" HUD Code home on the property provided such HUD Code home complies with all other regulations applicable within the Ordinance and provided further the old nonconforming unit is removed within 30 days from the respective property; also no Class "A" HUD Code home may be replaced with a Class "B" HUD Code home under the provision of this Section. (Amended October 23, 1995 and January 24, 2000)

Section 705. Change in Use of Property Where a Nonconforming Situation Exists.

A nonconforming non-structural use of the land may not be changed to any use but a nonconforming use. A nonconforming use of a structure may be changed either to another nonconforming use, provided that the proposed use is determined by the permit issuing authority to be an equal or higher use, or, to a conforming use. When a nonconforming use of the land or a structure has been changed to a conforming use, it shall not thereafter be used for any nonconforming use.

Section 706: Abandonment and Discontinuance of Nonconforming Situations

706.1: Discontinuance of Non-structural Use

When any nonconforming, non-structural use of land is discontinued for a period in excess of one hundred twenty(120) days, any future use of the land shall be limited to those uses permitted in that District under the provisions of the ordinance. Vacancy of non-use of the land, regardless of intent of the owner or tenant, shall constitute discontinuance under this provision.

706.2: Discontinuance of Structural Use

When any nonconforming use of a structure is discontinued for a period in excess of three hundred sixty-five (365) calendar days, any future use of the structure shall be limited to those uses permitted in that District under the provisions of this ordinance. Vacancy or non-use of the structure, regardless of intent of the owner or tenant, shall constitute discontinuance under this provision. If the nonconforming use requires a City Privilege license to operate and such license is either not issued or has lapsed for 365 calendar days, then the use is considered discontinued. Any nonconforming residential use of a structure without water supply or and/or electrical service for 365 calendar days shall also constitute a discontinuance under this provision

CITY OF HENDERSON

(Reference Article 15-2 of the Henderson City Code). Any nonconforming use of a structure which constitutes discontinuance under this provision shall be made conforming before use.

(Amended October 23, 2000)

Section 707: Completion of Nonconforming Projects

707.1: Vested Rights of Outstanding People

Except where the owner consents, nothing in this ordinance shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a certificate of zoning compliance or a special use permit or variance has been validly issued and which remains valid.

707.2: Vested Rights of Other Projects

Except as provided above, all work on any nonconforming project shall cease on the effective date of this article, and all permits previously issued for work on nonconforming projects shall be revoked as of the date. Thereafter, work on nonconforming projects may begin or may be continued only pursuant to a zoning, special use, conditional use, or sign permit issued in accordance with this section by the individual or board authorized by this ordinance to issue permits for the type of development proposed. The permit issuing authority shall issue such a permit if it finds that the applicant has in good faith made substantial expenditures or incurred substantial binding obligations or otherwise changed his position in some substantial way in reasonable reliance on the land use law as it previously existed at the time in which good faith reliance occurred and thereby would be unreasonably prejudiced if not allowed to complete his project as proposed. In considering whether these findings may be made, the permit issuing authority shall be guided by the following, as well as other relevant considerations:

1. All expenditures made to obtain or pursuant to a building, zoning, sign, special use or conditional use permit that was validly issued shall be considered as evidence of reasonable reliance. Furthermore, a person shall be considered to have acted in good faith if his action precedes a setting of a public hearing at which the change in the land use law was proposed.
2. To the extent that expenditures are recoverable with a reasonable effort, a party shall not be considered prejudiced by having made the expenditures.
3. to the extent that a nonconforming project can be made conforming and that expenditures made or obligations incurred can be effectively utilized in the completion of a conforming project, a party shall not be considered prejudiced by having made the expenditures.
4. An expenditure shall be considered substantial if it is significant both in dollar amount and in terms of the total estimated costs of the proposed project.

Section 708. Removal of Certain Permitted But Non-conforming Automobile Repair Facilities Unless Brought Into Compliance. (Amended 5/22/06)

If an automobile repair facility use (as defined in this Zoning Code) is presently permitted in the zoning district in which it is located but never obtained a zoning permit from the City because it was in existence on said premises before the City Zoning Code became applicable, said facility

CITY OF HENDERSON

shall be completely removed from the entire respective premises on which it is situated unless it fully complies with all of the actions required in the following schedule within the respective permitted times:

- (1) No additional motor vehicles (or parts thereof) that are not in the process of being repaired shall be brought upon the premises nor shall the area covered by the same or occupied by the same be increased or enlarged after the effective date of this Ordinance amendment.

Moreover, all other motor vehicles which have no current registration with the Department of Motor Vehicles and do not display both a current license plate and a current inspection sticker and all other motor vehicles which constitute an abandoned motor vehicle or a nuisance motor vehicle (as defined in Article VII of Chapter 7 of the City Code), which are in the process of being repaired, can only be brought upon the property if the repairs should be actually are completed and said respective motor vehicle is removed from the premises within 180 days of the effective date of the Ordinance or whenever said respective motor vehicle is first brought upon the premises.

Notwithstanding the above provisions (and those set forth in subsection (3) hereof), a motor vehicle may remain on the premises for more than 180 days (even though it may not have a current license plate or current inspection sticker) provided said motor vehicle is continuously kept in an enclosed building properly located on the premises. Provided, however, that said motor vehicle must be moved back within the enclosed building prior to the closing of business at the end of each day (at least by 6 o'clock p.m.). An enclosed building is defined to be a building completely enclosed by four or more walls and a complete overhead roof. (Amended 8/27/2007)

- (2) A complete application for a proper zoning Special Use permit from the City for an automobile repair facility must be submitted for said premises on or before the 19 day of September, 2006 (which is within 120 days from the date of the adoption of this Ordinance amendment), and approval of the same must be granted in the reasonably ordinary course of business by the Board of Adjustment.

The permit will be granted upon said premises completely complying with the provision of this Ordinance and of the requirements of a Special Use permit for automobile repair facilities together with the following additional provisions:

- (a) There shall be only one car per 162 square feet in the storage area. This area must meet the current parking space requirements of Section 541 of the Zoning Code. No parking space shall be smaller than 18 feet by 9 feet; for parallel parking, there shall be a minimum length of 20 feet per space. There shall be no less 18 feet of aisle or drive access width for 90 degree parking, no less than 16 feet of aisle or drive access width for 60 degree parking, and no less than 13 feet of aisle or drive access width for 45 degree parking.

CITY OF HENDERSON

(b) No vehicle shall be kept within 5 feet of any side or rear property lines. No vehicle shall be kept within the building setback area from any property line abutting a street or right-of-way as established by the Zoning Ordinance.

(c) No vehicle shall be stacked on top of another vehicle.

- (3) Relative to motor vehicles located on the premises at the time of the adoption of this Ordinance, all motor vehicles that are not in the process of being repaired, and also all vehicle parts (which are not with an enclosed structure), and all unusable vehicle parts shall be completely removed from the entire premises on or before the 22 day of May, 2007 (which is one year from the date of the adoption of this Ordinance amendment).

Moreover, all other motor vehicles which have no current registration with the Department of Motor Vehicles and do not display both a current license plate and a current inspection sticker and all other motor vehicles which constitute an abandoned motor vehicle or a nuisance motor vehicle (as defined in Article VII of Chapter 7 of the City Code), which are in the process of being repaired, can only be brought upon the property if the repairs should be actually are completed and said respective motor vehicle is removed from the premises within 180 days of the effective date of the Ordinance or whenever said respective motor vehicle is first brought upon the premises.

- (4) All paving (or alternative gravel surfacing) and screening required on the premises by the permit and under the terms of the Zoning Code shall be completed and in place on or before the 22 day of May, 2008 (which is two years from the date of the adoption of this Ordinance amendment).
- (5) The entire premises be brought into complete compliance with all other requirements of the zoning permit and of the Zoning Code on or before the 22 day of May, 2009 (which is three years from the date of the adoption of this Ordinance amendment), except any pre-existing automobile repair facility which is nonconforming only because it was located within minimum distance of residential districts or of residential dwellings (as set forth in 635B) or only because the automobile repair facility did not meet the minimum lot size, can be permitted to remain after said three year period if otherwise completely conforms with all other requirements of the zoning permit and of the Zoning code.

Provided that any such non-conforming use set forth in this Ordinance must be immediately removed from the premises in its entirety in the even any segment of the above respective schedule is not strictly complied with within the respective time period above designated.

Provided, further, this Ordinance shall not be construed to permit a use to remain during the above periods, if said use sooner expires, ceases, terminates, or must be earlier removed under some other provision of this Zoning Code or other law.

For purposed of this Section, "premises" shall be defined to include all contiguous properties either in common basic ownership or which is used together in business operations.

CITY OF HENDERSON

The provisions of the Paragraphs (2) through (5) of this section shall not apply to any premises for which Vance County specifically issued a valid special use zoning permit relative to an automobile repair facility before said premises was subject to the City's zoning jurisdiction.

Moreover, the provisions of subparagraphs (1) and (3) shall not apply to the following motor vehicles located on the premises, subject to the restriction herein respectively set forth:

- (A) A motor vehicle towed onto the premises by a towing operator (who operates a recognized valid towing business on said premises) under a towing contract with either the City of Henderson (including its Police Department), the County of Vance (including its Sheriff's Department), or the North Carolina State Highway Patrol or the North Carolina Department of Motor Vehicles or with an insurance company or with a statewide motor club (provided each such motor vehicle is removed within 180 days of the effective date of this Ordinance or whenever said respective motor vehicle is first brought upon the premises); or
- (B) A motor vehicle upon which the automobile repair facility is actively in the continuous process of selling under a valid mechanics lien or a valid storage lien (provided each such motor vehicle is removed within 180 days of the effective date of this ordinance or of the commencement of the enforcement of said lien); or
- (C) A motor vehicle which cannot be legally moved because it is the subject of litigation between the automobile repair facility and either the owner or an insurance company or a lien holder (while said litigation is pending and 30 days thereafter).

Section 708A. Removal of Certain Pre-Existing Non-Permitted Non-Conforming Automobile Repair Facilities unless Brought Into Compliance with the Provision of This Section (Amended 5/22/2006-New Section added)

If an automobile repair facilities use (as defined in this Zoning Code) is not permitted in the zoning district in which it is located and never obtained a zoning permit from the City because it was in existence on said premises before the City Zoning Code became applicable, said facility shall be completely removed from the entire respective premises on which it is situated unless it fully complies with all of the actions required in the following schedule within the respective permitted times:

- (1) No additional motor vehicles (or parts thereof) that are not in the process of being repaired shall be brought upon the premises nor shall the area covered by the same or occupied by the same be increased or enlarged after the effective date of this Ordinance amendment.

Moreover, no other motor vehicle which does not have a current registration with the Department of Motor Vehicles and do not display both a current license plate and a current inspection sticker and no other motor vehicles which constitute an abandoned motor vehicle or a nuisance motor vehicle (as defined in Article VII of Chapter 7 of the City Code), can be brought upon the property in the future.

CITY OF HENDERSON

Further, no other vehicle can be brought upon the premises unless the repairs should be and actually are completed and said respective motor vehicle is removed from the premises within 180 days of the effective days of this Ordinance or whenever said respective motor vehicle is first brought upon the premises.

Notwithstanding the above provisions (and those set forth in subsection (3) hereof), a motor vehicle may remain on the premises for more than 180 days (even though it may not have a current license plate or current inspection sticker) provided said motor vehicle is continuously kept in an enclosed building properly located on the premises. Provided, however, that said motor vehicle must be moved back within the enclosed building prior to the closing of business at the end of each day (at least by 6 o'clock p.m.). An enclosed building is defined to be a building completely enclosed by four or more walls and a complete overhead roof. (Amended 8/27/2007)

- (2) A complete application for a proper grandfathered zoning permit from the city for an automobile repair facility must be submitted for said premises on or before the 19 day of September, 2006 (which is within 120 days from the date of the adoption of this ordinance amendment), and approval of the same must be granted in the reasonably ordinary course of business by the Board of Adjustment. Such application will be granted only upon said premises completely complying with the provision of this ordinance and of the requirements of a Special Use Permit for automobile repair facilities together with the following additional provisions:
 - (a) The business shall not be operated except between the hours of 8:00 a.m. and 8:00 p.m.
 - (b) There shall be only one car per 162 square feet in the storage area. This area must meet the current parking space requirements of Section 541 of the Zoning Code. No parking space shall be smaller than 18 feet by 9 feet; for parallel parking, there shall be a minimum length of 20 feet per space. There shall be no less than 18 feet of aisle or drive access width for degree parking, no less than 16 feet of aisle or drive access width for 60 degree parking, and no less than 13 of aisle or drive access width for 45 degree parking.
 - (c) No vehicle parking shall be kept within 5 feet of any side or rear property lines. No vehicle shall be kept within the building setback area from any property line abutting a street or right-of-way as established by zoning ordinance.
 - (d) No vehicle shall be stacked on top of another vehicle
- (3) Relative to motor vehicle located on the premises at the time of the adoption of this ordinance, all motor vehicles that are not in the process of being repaired, and also all vehicle parts (which are not within an enclosed structure, and all unusable vehicle parts shall be completely removed from the entire premises on or before the 22 day of May, 2007 (which is one year from the date of the adoption of this ordinance amendment).

CITY OF HENDERSON

- (4) Moreover, all paving (or alternative gravel surfacing) and screening required on the premises by the permit and under the term of the Zoning Code shall be completed and in place on or before 22 day of May, 2007 (which is one year from the date of the adoption of this ordinance amendment).
- (5) The entire premises be brought into complete compliance with all other requirements of the zoning permit and the Zoning Code on or before the 22 day of May, 2008 (which is two years from the date of the adoption of this ordinance amendment), except any pre-existing automobile repair facility which is nonconforming only because it was located within minimum distances of residential districts or of residential dwelling (as set forth in 635B) or only because the automobile repair facility did not meet the minimum lot size, can be permitted to remain after said two year period provided it otherwise completely conforms with all other requirements of the zoning permit and of the Zoning Code.

Provided that any such non-conforming use set forth in this ordinance must be immediately removed from the premises in its entirety in the event any segment of the above respective schedule is not strictly complied with within the respective time period above designated.

Provided further, this ordinance shall not be construed to permit a use to remain during the above periods, if said use sooner expires, ceases, terminates, or must be earlier removed under some other provision of this Zoning Code or other law.

For purpose of this section, "premises" shall be defined to include all contiguous properties either in common basic ownership or which is used together in business operations.

The provision of paragraphs (2) through (5) of this section shall not apply to any premises for which Vance County specifically issued a valid special use zoning permit relative to an automobile repair facility before said premises was subject to the City's zoning jurisdiction.

Moreover, the provision of subparagraphs (1) and (3) shall not apply to the following motor vehicles located on the premises, subject to the restriction herein respectively set forth:

- (A) A motor vehicle towed onto the premises by towing operator (who operates a recognized valid towing business on said premises) under a towing contract with either the City of Henderson (including its Police Department), the County of Vance (including its Sheriff's Department), or the North Carolina State Highway Patrol or the North Carolina Department of Motor Vehicles or with an insurance company or with a statewide motor club (provided each motor vehicle is removed within 180 days of the effective date of this ordinance or whenever said respective motor vehicle is first brought upon the premises); or
- (B) A motor vehicle upon which the automobile repair facility is actively in the continuous process of selling under a valid mechanics lien or valid storage lien (provided each such motor vehicle is removed within 180 days of the effective date of this ordinance or of the commencement of the enforcement of said lien); or

CITY OF HENDERSON

- (C) A motor vehicle which cannot be legally moved because it is the subject of litigation between the automobile repair facility and either the owner or an insurance company or a lien holder (while said litigation is pending and 30 days thereafter)

Section 709. Removal of Certain Non- Conforming Junk Yards. (Amended-New Section added 5/22/2006)

Relative to premises on which junk yards are located, if the junk yard was in existence on said premises before the City Zoning code became applicable, but said respective use became or non-conforming by virtue of the adoption of the City Zoning Code (or of subsequent amendments thereto), said respective use (as defined in this Zoning Code) shall be Completely removed from the entire respective premises on which it is situated, in accordance with the following respective schedules:

Re: Junk Yards and/or Non-Accessory outdoor Storage:

- (A) If located on premises within a residential zoning district:
 - (i) No additional motor vehicles which have no current registration with the Department of Motor Vehicles and do not display a current license plate and a current inspection sticker and any other motor vehicles with constitute an abandoned motor vehicle or a nuisance motor vehicles(as defined in Article VII of Chapter 7 of the City Code) and no additional junk (including, but not limited to, old or scrap metal, rope, rags, batteries, paper, rubber, waste, non-ferrous materials, parts, appliances, bicycles, tires, furniture, building materials and similar debris which are not then assembled in presently usable condition for their respective originally intended purpose) shall be brought upon he premises, nor shall the area covered or occupied by the same be increased or enlarged after the effective date of this ordinance amendment.

All fluids shall be drained and all batteries removed from any vehicles or appliances before they can be brought on and stored upon the premises and said fluids and batteries shall be disposed of in accordance with all environmental regulations.

- (ii) Relative to motor vehicles and junk (as defined herein) located on the premises at the time of the adoption of this ordinance all motor vehicles and all junk (including, but not limited to old or scrap metal, rope, rags, batteries, paper, rubber, waste, non-ferrous material and similar debris which are not then assemble in presently usable condition for their respective originally intended purpose) shall be completely removed from the entire area within 75 feet of the front street property line and within 50 feet from all other property lines of the premises on or before the 22 day of May, 2007 (which is one year from the date of the adoption of this ordinance amendment).
- (iii) All motor vehicles and all junk (including but not limited to old or scrap metal, rope, rags, batteries, paper, rubber, waste, non-ferrous materials parts, appliances, bicycles, tires, furniture, building materials and similar debris which are not then assembled in

CITY OF HENDERSON

presently usable condition for their respectively originally intended purpose) shall be completely removed from the entire premises on or before the 22 day of May, 2008 (which is two years from the date of the adoption of this ordinance), subject only to the exception set forth in 7-118(c) of the City Code.

(B) If located on premises aggregating less than six acres in non-residential zoning districts:

(i) No additional motor vehicles which have no current registration with the Department of Motor Vehicles and do not display a current license plate and a current inspection sticker and any other motor vehicles which constitute an abandoned motor vehicle or a nuisance motor vehicle (as defined in Article VII of Chapter 7 of the City Code) and no additional junk (including but not limited to old or scrap metal, rope, rags , batteries, paper, rubber, waste, non-ferrous materials, parts, appliances, bicycles, tires, furniture, building materials and similar debris which are not then assembled in presently usable condition for their respective originally intended purpose) shall be brought upon the premises, nor shall the area covered or occupied by the same be increased or enlarged after the effective date of this ordinance amendment.

All fluids shall be drained and all batteries removed from any vehicles or appliances before they can be brought on and stored upon the premises and said fluids and batteries shall be disposed of in accordance with all environmental regulations.

(ii) Relative to motor vehicles and junk (as defined herein) located on the premises at the time of the adoption of this ordinance all motor vehicles and all junk (including but not limited to old or scrap metal, rope, rags, batteries, paper, rubber, waste, non-ferrous materials, parts, appliances, bicycles, tires, furniture, building materials and similar debris which are not then assembled in presently usable condition for their respective originally intended purpose) shall be completely removed from the entire area within 75 feet of the front street property line and within 50 feet from all other property lines of the premises on or before the 22 day of May, 2007 (which is one year from the date of the adoption of this ordinance amendment).

(iii) Relative to motor vehicles and junk (as defined herein) located on the premises at the time of the adoption of this ordinance all motor vehicles and all junk (including but not limited to old or scrap metal, rope, rags, batteries, paper, rubber, waste, non-ferrous materials, parts, appliances, bicycles, tires, furniture, building materials and similar debris which are not then assembled in presently usable condition for their respective originally intended purpose) shall be completely removed from the entire area within 150 feet of the front street property line and within 100 feet from all other property lines of the premises on or before the 22 day of May, 2008 (which is two years from the date of the adoption of this ordinance amendment).

(iv) The junk yard and/or outdoor storage must cease operations completely on said premises, and all motor vehicles and all junk (including, but not limited to , old or scrap metal, rope, rags, batteries, paper, rubber, waste, non-ferrous materials, parts, appliances, bicycles, tires, furniture, building materials and similar debris which are

CITY OF HENDERSON

not then assembled in presently usable condition for their respective originally intended purpose) shall be completely removed from the entire premises on or before the 22nd day of May, 2009 (which is three years from the date of the adoption of this Ordinance amendment).

(C) If located on premises aggregating six acres or more in non-residential zoning districts:

- (i) No additional motor vehicle which have no current registration with the Department of Motor Vehicles and do not display a current license plate and a current inspection sticker and any other motor vehicle which constitute an abandoned motor vehicle or a nuisance motor vehicle (as defined in Article VII of Chapter 7 of the City Code) and no additional junk (including but not limited to old scrap metal, rope, rags, batteries, paper, rubber, waste, non-ferrous materials, parts, appliances, bicycle, tires, furniture, building materials and similar debris which are not then assembled in presently usable condition for their respective originally intended purpose) shall be brought upon the premises nor shall the area covered or occupied by the same be increased or enlarged after the effective date of this ordinance amendment.

All fluids shall be drained and all batteries removed from any vehicle or appliances before they can be brought on and stored upon the premises and said fluids and batteries shall be disposed of in accordance with all environmental regulations.

- (ii) Relative to motor vehicles and junk (as defined herein) located on the premises at the time of the adoption of this ordinance all motor vehicles and all junk (including but not limited to old scrap metal, rope, rags, batteries, paper, rubber, waste, non-ferrous materials. Parts, appliances, bicycles, tires, furniture, building materials, and similar debris which are not then assembled in presently usable condition for their respective originally intended purpose) shall be completely removed from the entire area within 125 feet of the front street property lines and with 100 feet from all other property lines of the premises on or before the 22 day of May, 2007 (which is one years from the date of the adoption of this ordinance amendment).
- (iii) Relative to motor vehicles and junk (as defined herein) located on the premises at the time of the adoption of this ordinance all motor vehicles and all junk (including but not limited to old scrap metal, rope, rags, batteries, paper, rubber, waste, non-ferrous materials. Parts, appliances, bicycles, tires, furniture, building materials, and similar debris which are not then assembled in presently usable condition for their respective originally intended purpose) shall be completely removed from the entire area within 250 feet of the front street property line and within 200 feet from all other property lines of the premises on or before 22 day of May, 2008 (which is two years form the date of the adoption of this ordinance amendment).

CITY OF HENDERSON

- (iv) The junk yard and/or non-accessory outdoor storage must cease operations completely on said premises, and all motor vehicle and all junk (including but not limited to old or scrap metal, rope, rags, batteries, paper, rubber, waste, non-ferrous materials, parts, appliances, bicycles, tires, furniture, building materials and similar debris which are not then assembled in presently usable condition for their respective originally intended purpose) shall be completely removed from the entire premises on or before the 22 day of May, 2009 (which is three years from the date of the adoption of this ordinance amendment).

Provided that any such non-conforming use set forth in this ordinance must be immediately removed from the premises in its entirety in the event any segment of the above respective schedule is not strictly with the respective time period above designated.

Provided, further, this section shall not be construed to permit a use to remain during the above periods, if said use sooner expires, ceases, terminates, or must be earlier removed under some other provision of this Zoning Code or other law.

For the purposes of this section, "premises" shall be defined to include all contiguous properties either in common basic ownership or which is used together in business operations.

The provision of this ordinance shall not apply to Salvage Yards occupying premises of at least ten acres of land located in 1-2 or 1-3 zoning district provided said Salvage Yards have current permits from each of the Environmental Protection Agency, the North Carolina Department of Revenue, and the North Carolina Department of Transportation (if applicable) and are at all times in full compliance with all provisions of each of the same and with all applicable provisions of Article 12 of Chapter 136 of the North Carolina General Statutes and all other applicable state and federal requirements for said commercial use.

The provision of this Section shall not apply to any premises for which Vance County specifically issued a valid special use zoning permit relative to Junkyards and/or Non-Accessory Outdoor Storage Facilities before said premises was subject to the City's zoning jurisdiction.