

ITEM(S) TO BE CONSIDERED UNDER:

Consent Item Old Business New Business Other

FOR COUNCIL MEETING DATED:	May 10, 2010
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STAFF MAKING REQUEST:	C. James Ervin, Town Manager
BRIEF SUMMARY OF REQUEST:	<p>The Town has had persistent issues with vehicles garaged in the Town of Rocky Mount which do not have a Town decal. The Town's enforcement efforts have been limited by the fact that failure to have a current Town of Rocky Mount decal was construed as a moving violation.</p> <p>The ordinance submitted amends Chapter 62 of the Town of Rocky Mount Code to create a non-moving violation classification for the failure to have a current Town of Rocky Mount decal on a vehicle garaged in the Town of Rocky Mount. The fine for the offense is set at \$25.00 and will be issued via a citation, summons, parking ticket, or uniform traffic summons. The change in the code will enable more effective enforcement of the decal requirement.</p>
ACTION NEEDED:	Recommend approval / denial of draft ordinance.

Attachment(s): Yes

FOLLOW-UP ACTION: (To be completed by Town Clerk)	GIVEN TO (DEPT. HEAD) (To be completed by Town Clerk)
COMPLETED ACTION: (To be filled in by Town Clerk) (To be completed by Department Head)	GIVEN TO TOWN CLERK: (To be completed by Department Head)
DATE COMPLETED AND ACTION TAKEN:	DATE GIVEN TO TOWN CLERK:

IN THE COUNCIL OF THE TOWN OF ROCKY MOUNT

AN ORDINANCE of the Town of Rocky Mount amending Chapter 62, Article VI of the Code of the Town of Rocky Mount, Virginia (2002), and providing for changes to local vehicle licensing and registration in the Town of Rocky Mount.

BE IT ORDAINED by the Council of the Town of Rocky Mount that Chapter 62, Article VI of the Code of the Town of Rocky Mount, Virginia (2002), is amended to read and provide as follows:

ARTICLE VI.

LOCAL VEHICLE LICENSES *

* **State Law References:** Authority of town to impose taxes and license fees, Code of Virginia, § 46.2-752; limitation on imposition of motor vehicle license taxes and fees, Code of Virginia, § 46.2-755.

Sec. 62-186. Required; exceptions.

(a) It shall be unlawful for any person to drive or operate, or cause or permit the driving or operation of, any motor vehicle, trailer, or other vehicle upon which a tax is imposed by Section 62-187, on the streets, roads, public parking lots, and other public ways in the town, or to allow the same to be parked or stopped thereon, unless such vehicle is currently licensed under the provisions of this article. The owner of such vehicle shall obtain such license between January 1 and February 28 of each year. Such license shall take effect on April 1 of each year.

(b) No person shall be required to obtain a license under this article for a vehicle that is exempt from annual registration and license plates under Title 46.2, Chapter 6, Article 6, Code of Virginia, or a vehicle upon which the town is prohibited from imposing a tax or license fee by § 46.2-755, Code of Virginia.

(c) Any vehicle of an owner which, by change of residence of such owner, becomes licensable by the town on or after January 1 of any year, may be lawfully operated, parked or stopped upon the streets, roads, public parking lots, and other public ways during the period from January 1 of such year until expiration of the first fifteen (15) days of the town's next current vehicle license year; provided, in each instance, such vehicle has been duly licensed by the locality in which such vehicle was licensable at the time its situs for license taxation became the town.

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(d) No person shall be required to obtain a license under this article for a vehicle which is owned solely by a person in military service residing in the town solely by reason of compliance with military orders, upon whose vehicle the town is prohibited from imposing a tax or license fee by the Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C. App. § 574.

Sec. 62-187. Levy of annual license fee.

There is hereby levied an annual license fee on every motor vehicle, trailer, or other vehicle owned, maintained, operated or kept in the town by a resident of the town and every vehicle used in connection with a business located in the town. The license fee shall be as follows:

- (a) Twenty-five dollars (\$25.00) for each automobile
- (b) Twenty-five dollars (\$25.00) for each truck
- (c) Twenty-five dollars (\$25.00) for each trailer over 4000 pounds gross weight
- (d) Twenty dollars (\$20.00) for each trailer between 1501 pounds and 4000 pounds gross weight
- (e) No fee for each trailer 1500 pounds or less gross weight
- (f) Motorcycles, \$18.00.

Sec. 62-188. When tax payable.

When any motor vehicle, trailer, or other vehicle, upon which an annual fee is imposed by Section 62-187, has its situs in the town on January 1 of any year, the fee imposed by this article shall be paid between January 1 and February 28 of the same year. When any such vehicle upon which an annual fee is imposed by Section 62-187 acquires its situs in the town after January 1 of any year, the fee imposed by this article shall be paid within thirty (30) days of acquisition of situs or by May 31 of the same year, whichever shall occur later. For purposes of this article, "situs" shall be determined according to § 46.2-752, Code of Virginia (1950), as amended.

Sec. 62-189. Payment of taxes required for license.

No motor vehicle, trailer, or other vehicle shall be locally licensed unless and until the applicant for such license shall have produced satisfactory evidence that all personal property taxes upon the vehicle to be licensed have been paid and satisfactory evidence that any delinquent personal property taxes owing have been paid which have been properly assessed or are assessable against the applicant by the town.

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Sec. 62-190. Requirements; payment of tax a condition precedent to discharge of violations.

(a) It shall be unlawful for any owner of a motor vehicle, trailer, or other vehicle to fail to comply with the provisions of this article.

(b) A violation of this section may not be discharged by payment of a fine except upon presentation of satisfactory evidence that the required license tax has been paid.

(c) Local law enforcement officers are authorized to issue citations, summonses, parking tickets, or uniform traffic summonses for violation of this section.

(d) Every person receiving written notice from a police officer that he or she has violated this section may waive his or her right to appear and be formally tried for the violation set forth in the notice upon the voluntary payment of a penalty in the amount of twenty-five dollars (\$25.00). Such penalty shall be paid to the town finance director during the regular business hours of the office. The finance director shall not accept payment of this penalty except upon presentation of satisfactory evidence that the required license tax has been paid. The finance director shall be authorized to accept partial payment of the penalty due.

(e) If this penalty is not paid within fifteen (15) days of the issuance by an officer of a notice of violation, then a penalty of twenty-five dollars (\$25.00) shall apply. A late notice shall be sent by the town's finance department to the violator. Any violator to whom such late notice is sent may pay the penalty of twenty-five dollars (\$25.00) within fifteen (15) days of the date of such late notice. If the violator does not pay the penalty according to such late notice, a law enforcement notice pursuant to § 46.2-941, Code of Virginia (1950), as amended, shall be sent by the city's department of billings and collections to the violator. The city treasurer shall not accept payment of this penalty except upon presentation of satisfactory evidence that the required tax has been paid. The city treasurer shall be authorized to accept partial payment of the penalty due.

(f) If the violator fails to pay the penalty provided for above within fifteen (15) days of receipt of a law enforcement notice sent according to § 46.2-941, Code of Virginia (1950), as amended, the clerk of the general district court and the officer responsible for issuing the summons shall be notified of the failure to pay such penalty, in order that a summons may be issued.

(g) In the event the town finance director is advised that any person desires to contest a violation of this section, the finance director shall transmit notice of such fact as soon as possible in writing in an appropriate form to the clerk of the general district court.

(h) Every person tried and convicted of a violation of this section shall be guilty of a class 4 misdemeanor, the penalty for which shall be inclusive of the penalty set forth above for a violation of this section. Unless otherwise ordered by the judge in whose court this violation is tried, or in which the same is cognizable, all fines and penalties arising under this section shall be paid into the town treasury.

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This ordinance is effective immediately.

Adopted this ____ day of _____, 2010

Ayes:

Nays:

APPROVED:

Mayor

ATTEST:

Clerk

Approved as to form:

Town Attorney