

**ORDINANCE NO. 92-3
WYTHE COUNTY CLEAN AIR ORDINANCE**

ARTICLE I - Title, Authority, Jurisdiction

- 1.1 Title. This ordinance shall hereinafter be know as and may be cited as the Wythe County Clean Air Ordinance, Ordinance Number 92-3.
- 1.2 Authority. It is adopted pursuant to the authority of Section 15.1-291.1 of the Code of Virginia, of 1950, as amended.
- 1.3 Jurisdiction. The provisions of this ordinance shall apply to all buildings owned or controlled by Wythe County, wheresoever located and to all area within Wythe County, Virginia, which is not within the jurisdictions of incorporated municipalities.

ARTICLE II - Purpose

- 2.1 Purpose. The purpose of this ordinance is to adopt regulations controlling and regulating smoking in public places in the County and to direct and authorize the County Administrator to develop and implement smoking policies and procedures for County owned or controlled buildings and work areas.

ARTICLE III - Rules

- 3.1 In the construction of this ordinance, the rules contained in this section shall be observed and applied, except when the context clearly indicates otherwise:
1. Words used in the present tense shall include the future, and words used in the singular number shall include the plural number, and the plural the singular;
 2. The word "approve" shall be considered to be followed by the words "or disapprove";
 3. The word "may" is permissive and not mandatory;
 4. The word "shall" is mandatory and not discretionary;
 5. The masculine gender includes the feminine and neuter; and
 6. Any reference to this ordinance includes all

ordinances amending or supplementing the same.

ARTICLE IV - Definitions

- 4.1 Definitions. For the purpose of this ordinance certain terms or words used herein shall be defined as follows:
- 4.1-1 Bar or Lounge Area: Any establishment or portion of an establishment where one can consume alcoholic beverages and hors d'oeuvres, but excluding any such establishment or portion of the establishment having tables or seating facilities where, in consideration of payment, meals are served.
- 4.1-2 Health Care Facility: Any institution, place, building, or agency required to be licensed under Virginia law, including, but not limited to, any hospital, nursing home, boarding home, adult home, supervised living facility, or ambulatory medical and surgical center.
- 4.1-3 Person: Any person, firm, partnership, association, corporation, company, or organization of any kind.
- 4.1-4 Private Work Place: Any office or work area which is not open to the public in the normal course of business except by individual invitation.
- 4.1-5 Proprietor: The owner or lessee of the public place, who ultimately controls the activities within the public place. The term "proprietor" includes corporations, associations, or partnerships as well as individuals.
- 4.1-6 Public Conveyance or Public Vehicle: Any air, land, or water vehicle used for the mass transportation of persons in intrastate travel for compensation, including, but not limited to, any airplane, train, bus, or boat that is not subject to federal smoking regulations.
- 4.1-7 Public Place: Any enclosed, indoor area used by the general public, including but not limited to any building owned or leased by the Commonwealth or any agency thereof or any county, city, or town, public conveyance or public vehicle, restaurant, educational facility, hospital, nursing home, other health care facility, library, retail store of 15,000 square feet or more, auditorium, arena, theater, museum, concert hall, or other area used for a performance or an exhibit of the arts or sciences, or any meeting room.
- 4.1-8 Restaurant: Any building, structure, or area excluding a bar or lounge area as defined in this chapter, having

a seating capacity of fifty or more patrons, where food is available for eating on the premises in consideration of payment.

4.1-9 Smoke or Smoking: The carrying or holding of any lighted pipe, cigar, or cigarette of any kind, or any other lighted smoking equipment, or the lighting, inhaling, or exhaling of smoke from a pipe, cigar, or cigarette of any kind.

4.1-10 Theater: Any indoor facility or auditorium, open to the public, which is primarily used or designed for the purpose of exhibiting any motion picture, stage production, musical recital, dance, lecture, or other similar performance.

ARTICLE V - Smoking in Public Buildings and Places

5.1 It is unlawful for any person to smoke in any of the following places:

1. Elevators, regardless of capacity;
2. Common areas in an educational facility, including, but not limited to, classrooms, hallways, auditoriums, and public meeting rooms;
3. Any part of a restaurant designated a "no smoking" area pursuant to state law;
4. Indoor service lines and cashier areas;
5. School buses and public conveyances;
6. In any retail store in which more than eight (8) persons are regularly employed at any one (1) time;
7. In any food store in which more than eight (8) persons are regularly employed at any one (1) time;
8. In any health care facility, regardless of capacity but with the exception of private rooms;
9. In any indoor facility used for recreational purposes, supported in whole or in part with public funds;
10. In any building in which a Juvenile and Domestic Relations, General District or Circuit Court is located.

5.2 The County Administrator shall develop and implement

policies and procedures governing smoking in parts of County owned and controlled buildings or work areas not open to the general public in the normal course of business, except by invitation. The County Administrator shall enforce these policies and procedures through administrative methods.

ARTICLE VI - Exceptions

6.1 Exceptions. The provisions of this ordinance shall not apply to office or work areas which are not entered by the general public in the normal course of business or use of the premises.

ARTICLE VII - Enforcement

7.1 Enforcement. Violation of this ordinance shall result in a civil penalty of Twenty-five Dollars (\$25.00). Any aggrieved person, including the County of Wythe, may seek to impose the civil penalty by civil action which shall be payable to the County of Wythe.

ARTICLE VIII - Legal Status Provisions

8.1 Should any portion or provision of this ordinance be held by any court of competent jurisdiction to be unconstitutional or invalid, that decision shall not affect the validity of the ordinance as a whole, or any part of the ordinance other than the part held to be unconstitutional or invalid.

8.2 Certified copies of this ordinance and all amendments thereto shall be filed in the offices of the Planning Commission, the County Administrator, and the Clerk of the Circuit Court of Wythe County, Virginia.

8.3 Effective Date. This ordinance was duly considered following the required public hearing held on July 14, 1992 and was adopted by the Board of Supervisors of Wythe County Virginia, at its regular meeting held on July 14, 1992 the members voting:

8.4

NAME	FOR	AGAINST	ABSENT
G. Andrew Kegley, Jr.	X		
Mark C. Munsey	X		
R. T. DuPuis			X
Olin F. Armentrout	X		
Alan A. Dunford	X		
James J. Crosswell	X		
John E. Davis, Jr.	X		

This ordinance shall become effective on and after 12:01 a.m.,
on July 15, 1992.

I certify that this is a true and correct copy taken from the
July 14, 1992 minutes of the Wythe County Board of
Supervisors.

Billy R. Branson, Clerk