

ORDINANCE NO. 98-1
OBSCENITY AND NUDITY
COMMUNITY STANDARDS ORDINANCE
OF
WYTHE COUNTY, VIRGINIA

ARTICLE I - Title, Authority, Jurisdiction and Purpose

- 1.1 Title. This ordinance shall hereinafter be known as and may be cited as the "Obscenity and Nudity Community Standards Ordinance of Wythe County, Virginia", Ordinance No. 98-1.
- 1.2 Authority. It is adopted pursuant to the provisions of Virginia Code Sections 18.2-389 and 18.2-390, of the Code of Virginia, 1950, as amended.
- 1.3 Jurisdiction. The provisions of this ordinance shall apply to Wythe County, Virginia.
- 1.4 Purpose. The purpose of this ordinance is to enforce community standards of decency in public areas and in those premises to which the public may be admitted.

ARTICLE II - Definitions

- 2.1 Obscene. The word "obscene" where it appears in this ordinance shall mean that which, considered as a whole, has as its dominant theme or purpose an appeal to the prurient interest in sex, that is, a shameful or morbid interest in nudity, sexual conduct, sexual excitement, excretory functions or products thereof or sadomasochistic abuse, and which goes substantially beyond customary limits of candor in description or representation of such matters, and which, taken as a whole, does not have serious literary, artistic, political or scientific value.
- 2.2 Nudity. Nudity means a state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered or uncovered male genitals in a discernibly turgid state.

ARTICLE III - Unlawful Acts - Penalties

- 3.1 It shall be unlawful for any person to appear in a state of nudity in public or in a public place, or in a place open to the public or public view, whether or not any member of the public views the same. Upon conviction, such person shall be guilty of a Class 1 misdemeanor, punishable as provided by law.
- 3.2 Any person who employs, encourages or procures another person so to appear as provided in paragraph 3.1 of this ordinance shall also be guilty of a Class 1 misdemeanor and similarly punished.
- 3.3 Any person who knowingly and wilfully permits the use of his or her premises for the purpose of an obscene display shall also be guilty of a Class 1 misdemeanor and similarly punished.
- 3.4 Each day or portion of a day for which a violation of this ordinance shall continue shall constitute a separate offense.

ARTICLE IV - Exceptions

- 4.1 Nothing contained in this ordinance shall be construed to apply to the exhibition, presentation, showing or performance of any play, ballet, drama, tableau, production or motion picture in any theater, concert hall, museum of fine arts, school, institution of higher learning or other similar establishment. This exception shall apply if such establishment is primarily devoted to such exhibitions, presentations, shows or performances as a form of expression of opinion, communication, speech, ideas, information, act or drama. This exception shall not apply if the establishment is primarily devoted to commercial or business advertising, promotion or exploitation of nudity for the purpose of advertising, promotion, selling or serving products or services or otherwise advancing the economic welfare of a commercial or business enterprise such as a hotel, motel, bar, nightclub, restaurant, tavern or dance hall.

ARTICLE V - Legal Status Provisions

- 5.1 Certified Copies of Ordinances. Certified copies of this ordinance and all amendments thereto shall be filed in the office of the County Administrator.
- 5.2 Validity. Should any article, section, subsection or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or

constitutionality of this ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

5.3 Conflicting Ordinances. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of their conflict.

5.4 Effective Date. This ordinance was duly considered following a required public hearing held on January 20, 1998 and was adopted by the Board of Supervisors of Wythe County, Virginia at its regular meeting held on February 3, 1998, the members voting as follows:

<u>NAME</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSENT</u>
Wythe B. Sharitz			X
Mark C. Munsey	X		
Charles S. Dix	X		
Danny C. McDaniel	X		
S. Clay Lawrence	X		
Howard W. Manley	X		
Harvey E. Atkinson, III	X		

This ordinance shall become effective on and after 12:01 a.m. on February 4, 1998.

I certify that this is a true and correct copy taken from the February 3, 1998 minutes of the Wythe County Board of Supervisors meeting.

R. Cellell Dalton, Clerk