

**VILLAGE OF YELLOW SPRINGS
ORDINANCE 2020-13**

**REQUIRING FACIAL COVERING IN THE CENTRAL BUSINESS DISTRICT AND
DECLARING AN EMERGENCY**

WHEREAS, COVID-19 may cause serious illness or death, and the virus is exceptionally contagious, with the World Health Organization declaring a pandemic March 11, 2020; and

WHEREAS, on April 20, 2020, Council for the Village of Yellow Springs declared a local emergency based on the COVID-19 pandemic; and

WHEREAS, as a result of the above described emergency, there is a continuing and urgent need to protect the public from the risks relating to the COVID-19 pandemic through the protection provided by physically distancing, wearing facial coverings and regularly washing/sanitizing hands; and

WHEREAS, on June 15, 2020, Council enacted Resolution 2020-23, requiring physical distancing, facial covering and hand sanitizing/washing when in the Village of Yellow Springs Central Business District and encouraging voluntary compliance with such requirements; and

WHEREAS, Council for the Village of Yellow Springs has received additional input from “at risk” residents as well as Village personnel, the local business community, the Greene County Combined Health District, and others and Council has concluded that the voluntary compliance efforts should be continued with additional enforcement capability given the number of diagnosed COVID19 cases in Greene County and surrounding areas, while recognizing that COVID19 continues to pose a serious threat to reopening and reviving the Yellow Springs economy; and

WHEREAS, the Ohio Department of Health has implemented a Public Health Advisory Alert System to address county-by-county compliance with COVID19 precautions; and

WHEREAS, wearing a facial covering in public may be the simplest, most effective way to protect each other and help keep Yellow Springs businesses open while remaining flexible to account for the evolving nature and scope of the unprecedented public health emergency posed by COVID19, while recognizing the responsibility to protect the health, safety, security, and welfare of the people of the Village of Yellow Springs, requiring facial coverings be worn in public spaces is necessary to promote and secure the safety and protection of the population.

**NOW, THEREFORE, COUNCIL FOR THE VILLAGE OF YELLOW SPRINGS HEREBY
ORDAINS THAT:**

Section 1. All persons within the area of the Village-zoned Central Business District shall be required to maintain physical distance of at least six feet of separation from non-group members to regularly sanitize/wash hands, and/or to wear a facial covering provided expressly for that purpose if they are not able to maintain a physical distance of at least six feet (the latter requirement exempts individuals with documented medical condition(s) which prevent wearing of a facial covering and children under the age of ten years old.)

Section 2. Section 660.16 of the Code of the Village of Yellow Springs is hereby created to read as follows:

660.16 Pandemic precautions.

(a) Definitions. As used in this Section, the following terms have the following meanings:

- 1) "Facial covering" means a cloth or other covering of the nose and mouth secured by ties, straps, or loops over the ears or is in some other way snug-fitting to the lower face. A facial covering may be factory-made, sewn by hand, or improvised from household items such as scarfs, bandanas, t-shirts, sweatshirts, or towels and may also be referred to as a "mask."
- 2) "Pandemic" means a disease occurring over a wide geographic area affecting a high proportion of the population, but in this definition requires an official declaration of emergency by the Village of Council of Yellow Springs pertaining to any pandemic.
- 3) "Public place" means any indoor or outdoor place open to the public, including most businesses, streets, sidewalks and government-owned facilities, but excludes private residential property as well as private businesses that are not open to customers or visitors, as well as government-owned real estate which has restricted or controlled access to employees and other authorized individuals.
- 4) "Social distancing" means maintaining a distance of more than six feet of physical proximity to other individuals, except for those who reside together or are abiding by other governmental restrictions on group gatherings with only infrequent or incidental moments of closer proximity.

(b) During any pandemic emergency declaration by the Village Council, all persons in the Central Business District of the Village and on Village-owned properties shall cover mouths and noses with a facial covering in the following situations:

- 1) When inside any indoor public place if social distancing is not possible;
- 2) When waiting in line to enter an indoor public space.
- 3) When outdoors in public places if physical distancing is not possible..

(c) Exemptions. The following individuals may be exempt from wearing facial coverings:

- 1) Persons under the age of ten years old;
- 2) Persons with a medical condition, mental health condition, or disability that prevents wearing a facial covering including obstructed breathing or those who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance;
- 3) Persons who are hearing impaired or communicating with a person who is hearing impaired if the ability to see mouth movement is essential for communication;
- 4) Persons for whom wearing a face covering would create a risk related to work, as determined by local, state, or federal regulators or workplace safety guidelines;
- 5) Persons obtaining a service involving the nose or face for which temporary removal of the facial covering is necessary to perform the service;
- 6) Patrons seated at a restaurant or other establishment with food or beverage service, while eating or drinking, provided they wear facial coverings until served and until the server has attained social distancing;
- 7) Athletes engaged in a sports activity that allows social distancing;
- 8) Motorists and passengers in or on a motor vehicle and cyclists regardless of whether the vehicle is fully or partially enclosed or socially distanced from pedestrians;
- 9) Persons engaged in any lawful activity during which wearing facial covering is prohibited by law.

(d) Enforcement. No anonymous complaints shall serve as the basis for probable cause for investigation. Any person may report an alleged violation to the Yellow Springs Police Department to request enforcement but shall, as a condition of such reporting, agree to serve as a competent eyewitness in any proceedings before Yellow Springs Mayor’s Court or Xenia Municipal Court. Any Village personnel who observe a violation as an eyewitness on Village-owned property or public places may issue a verbal or written warning in lieu of citation if a law enforcement officer is unavailable to respond within a reasonable period of time, which may result in multiple warnings but not necessarily an increased penalty.

(e) Penalty. Any person who violates the provisions of Section (b) without claiming an exemption shall be issued a written warning and advised to wear a facial covering immediately on the first infraction reported or observed. A documented second violation, if observed by law enforcement or confirmed through investigation of a complaint or warning, may result in a citation for violating Village Codified Ordinance 660.16(b) as an infraction subject to a fine of up to \$30.. Any subsequent violation within two months of the first citation, if convicted of the first offense, may result in a citation as an infraction subject to a fine up to \$50. If charged under the repeat offender specification, law enforcement shall, in the charging instrument, include the date of conviction for the first violation. Upon conviction of a violation of this Section as a first or subsequent offense, the sentencing court may, in addition to or in lieu of the penalties provided in this Section, require the person to complete community service.

Section 3. This Ordinance is hereby declared to be an emergency measure under home rule power granted by the Village Charter and immediately necessary to preserve the public interest and for the health, safety and welfare of the citizens of and visitors to the Village.

Brian Housh, Council President

Passed: 7-8-2020

Attest: _____
Judy Kintner, Clerk of Council

ROLL CALL

Brian Housh __Y__ Marianne MacQueen __Y__ Kevin Stokes _Y_
Lisa Kreeger __Y__ Laura Curliss _Y_