



## Request for Council Action

**TO:** Mayor and City Council  
**FROM:** Tim Murray, City Administrator  
**MEETING DATE:** May 26, 2020  
**SUBJECT:** Resolution 2020-088 Authorizing the Granting of Regulatory Flexibility to Local Businesses

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### **Background:**

In order to accelerate approvals for potential business requests to resume their business operations in compliance with the requirements and restrictions set for in executive orders issued by the Governor, a resolution has been prepared which grants authority to the City Administrator to approve certain actions regarding licensing, zoning, etc. This resolution follows an example resolution provided by our City Attorney, who has been consulted regarding the means and methods regarding this action to ensure we are working within our legal authority.

Staff will be developing standard forms to be used for processing these requests in the next week with the intention of making the process as simple and efficient as possible. Appropriate staff will be asked to review the requests submitted to identify any concerns and to establish conditions of approval as warranted. Requests could include the use of adjacent City property or right-of-way for outdoor seating, expansion of licensed premises for on-sale liquor establishments, new or additional signage installation, etc.

As a reminder, the date for the re-opening of bars and restaurants, with a number of restrictions, is June 1, 2020. While it is unclear how many requests we may get, we believe it is important to offer support and provide options to allow business to try and resume their operations and be successful. The attached resolution allows this authority and regulatory flexibility to be exercised until the end of 2020.

### **Recommendation:**

Approve Resolution #2020-088

### **Attachments:**

- Resolution #2020-088

## **CITY OF FARIBAULT**

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### **RESOLUTION #2020-088**

#### **AUTHORIZING THE GRANTING OF REGULATORY FLEXIBILITY TO LOCAL BUSINESSES**

**WHEREAS**, the President of the United States and the Governor of the State of Minnesota have declared states of emergency as a result of the spread of COVID-19; and

**WHEREAS**, on March 15, 2020, the Mayor of the City of Faribault issued a declaration of local emergency and on March 24, 2020 the City Council acted by resolution to extend the local emergency declaration; and

**WHEREAS**, the City Council recognizes this emergency has had a devastating effect on local businesses required to close pursuant to the Governor's orders, particularly restaurants and other businesses that were the last to be allowed to reopen; and

**WHEREAS**, businesses are required to have a plan in place to safely reopen to the public that reflects social distancing requirements and complies with limits imposed on the number of customers that may be served at one time; and

**WHEREAS**, the Governor's office has encouraged local governments to be creative in working with businesses as they reopen, particularly restaurants who are initially limited to outdoor service only; and

**WHEREAS**, in order to support the continued viability of local businesses, maximize the number of customers allowed to access businesses in light of the state's operating restrictions, and to exercise the creativity encouraged by the Governor's office, the City Council determines it is in the best interest of the City to allow the granting of regulatory flexibility as part of an approved plan submitted by each business seeking such flexibility; and

**WHEREAS**, it is not practical under the circumstances of this emergency to require businesses to pursue what can be a several month process to seek amendments and other approvals to obtain the flexibility they need now to safely reopen their businesses; and

**WHEREAS**, delegating authority to the City Administrator to grant flexibility to local regulations as part of a plan a business submits to the City Administrator for approval is the only workable solution for expeditiously providing the assistance local businesses need as they start to reopen and put their employees back to work.

**NOW, THEREFORE, BE IT RESOLVED**, by the Faribault City Council as follows:

1. The City Administrator is hereby delegated the authority to grant, on behalf of the City, flexibility in City regulations as the City Administrator determines is appropriate to support the operations of local businesses as they reopen to the customers and resume operations under the limitations imposed by the Governor's emergency orders. Regulatory flexibility may only be granted as part of a written plan the City Administrator approves for a particular business entity.
2. For the purposes of this Resolution, the "regulatory flexibility" the City Administrator is authorized to grant includes, but is not limited to, the following:
  - (a) Allow the expansion of the licensed "premises" of a business holding an on-sale liquor license to allow the service and consumption of alcohol in an expanded area identified in the approved plan;
  - (b) Allow the expansion of existing business operations without requiring amendments to existing zoning approvals or new zoning approvals;
  - (c) Allow a business to use adjacent City property (under this Resolution, City property shall be interpreted to include public right-of-way under the jurisdiction of the City) for customer seating, the display of its products for sale, or for other similar uses upon entering into a license or use agreement with and/or obtaining an appropriate permit from the City; and
  - (d) Such other flexibility in the City's regulations and the enforcement of those regulations as the City Administrator determines is appropriate under the particular circumstances of the business to reasonably allow it to conduct its business in a manner that maximizes its operations while complying with its plan, the Governor's emergency orders, and applicable guidelines.

3. The City Administrator has the discretion to deny any request for regulatory flexibility. If approved, the City Administrator shall place such conditions on the approval as the City Administrator determines are reasonable under the circumstances. The City Administrator is authorized to issue written approvals of regulatory flexibility to execute license/use agreements and/or permits on the City's behalf. The City Administrator may immediately repeal any approved regulatory flexibility if the City Administrator determines the business violated the scope of the regulatory flexibility, any conditions placed on the granted flexibility, or the expanded business operations interfere with public safety or unreasonably obstructs the use of public property.
4. The regulatory flexibility allowed under this Resolution is intended to temporarily allow a business to overcome local regulatory hurdles that interfere with its efforts to implement its plans to reopen and operate in accordance with social distancing and other federal and state safety requirements. This Resolution, and regulatory flexibility granted hereunder, does not exempt a business from:
  - (a) Complying with all applicable federal and state laws, rules, regulations, and emergency orders;
  - (b) Fully implementing its COVID-19 Preparedness Plan;
  - (c) Complying with local regulations not directly related to the regulatory flexibility granted in the plan approved by the City Administrator; or
  - (d) Immediately returning to full compliance with all applicable local regulations upon the expiration or termination of the regulatory flexibility.
5. The authority delegated herein to the City Administrator shall take effect immediately and shall continue through December 31, 2020.
6. Such approvals granted pursuant to this Resolution shall expire upon a date to be determined by the City Council as it reviews and responds further to the local emergency declaration.
7. The City Administrator shall submit one or more reports to the City Council identifying the businesses granted regulatory flexibility and the types of flexibility granted, including whether the business entered into a license/use agreement and/or permit with the City to utilize City property.

**Date Adopted:** May 26, 2020

**Faribault City Council**

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**Kevin F. Voracek, Mayor**

**ATTEST:**

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**Timothy C. Murray, City Administrator**