



February 7, 2025

Via e-mail only

Dan Haverty
Interim City Manager
City of Folsom
50 Natoma Street
Folsom, CA 95630
dhaverty@folsom.ca.us

Re: City of Folsom – Ordinance Amendments

Dear Mr. Haverty:

On January 27, 2025, the Department of Justice (Department), Bureau of Gambling Control (Bureau) received correspondence from the City of Folsom's (City or Folsom) Interim City Manager regarding the City's proposed amendments to its Municipal Code (Proposed Amendment). The City submitted the Proposed Amendment to the Bureau for review in compliance with the City's obligations under Business and Professions Code section 19961.1.¹

Section 5.20.070 of the City's Municipal Code (Section 5.20.070) governs the operation of gambling establishments² within Folsom. The City proposes to amend Section 5.20.070 to establish a table limit within its "jurisdiction."³ The Bureau offers the following comments to

¹ "Any amendment to a city or county ordinance relating to gambling establishments, or the Gambling Control Act, shall be submitted to the [D]epartment for review and comment, before the ordinance is adopted by the city or county." (Bus. & Prof. Code, § 19961.1.)

² Section 5.20.010 of the Municipal Code includes a definition for "cardroom," which the Bureau acknowledges is synonymous with the definition of "gambling establishment" under the Act. (Bus. & Prof. Code, § 19805, subd. (o).)

³ Bus. & Prof. Code, § 19860, subd. (a)(5). In September 2022, the City submitted to the Bureau proposed amendments to Section 5.20.070. The Bureau provided its comments to the City on those proposed amendments in a letter dated October 11, 2022 (2022 Letter). In that letter, the Bureau advised the City of the requirements imposed by Business and Professions Code

the Proposed Amendment and responds to the City's assessment that it possesses a 374-card table limit.

1. Section 5.20.070 – Cardroom Regulations

Section 5.20.070, subdivision 2, specifies that “[n]o more than eleven card tables shall be permitted in any cardroom.” The City proposes to amend this subdivision to specify that no more than eleven “card tables” are allowed within the City. (Section 5.20.070, subd. (A)(2).) This Proposed Amendment appears to comply with the Gambling Control Act (Act) and to address the concerns that the Bureau raised in its 2022 Letter. If further amendments are forthcoming, please provide the Bureau with those amendments prior to their adoption in compliance with Business and Professions Code section 19961.1.

2. 374 Card Table Limit

In your January 23, 2025 correspondence, you included an excerpt of the City Attorney's analysis that the City may, under Folsom Municipal Code section 5.20.050 (Section 5.20.050), subdivision C, be allowed to operate 34 cardrooms, and that with a cardroom table limit of 11 tables, the City theoretically would have a jurisdictional table limit of 374 tables. This analysis appears to be at odds with the Proposed Amendment discussed above, is in contravention of applicable statutes, and in our estimation misreads Section 5.20.050, subdivision C.

Specifically, Business and Professions Code section 19961, subdivision (a)(1), prohibits an “expansion of gambling” without the approval of the voters of a city, county, or city and county. Business and Professions Code section 19961, subdivisions (b)(1) and (b)(2), include in the definition of “expansion of gambling” an increase of 25 percent or more in the number of card tables or licensed gambling establishments, respectively, allowed in a city, county, or city and county, when compared to that allowed on January 1, 1996.

In addition, the language of Section 5.20.050, subdivision C, appears to simply place a limit on the number of potentially allowable licensed cardrooms in the City. To the extent Section 5.20.050, subdivision C, may fairly be characterized as purporting to “automatically” increase both the number of tables allowed within the City as well as the number of cardrooms, it conflicts with applicable statutes. As previously noted in the Bureau's 2022 Letter, ordinance language that does not state a jurisdiction's table limit does not comply with Business and Professions Code section 19860, subdivision (a)(5).

section 19860, including a requirement that a city, county, or city and county have in effect an ordinance governing “the number of tables in each gambling establishment and in the jurisdiction.” (*Ibid.*)

The Act provides that an ordinance may be amended to increase the number of tables allowed within a gambling establishment or within the relevant jurisdiction. Approving such an increase necessarily requires an affirmative act by the jurisdiction's legislative body. That such an increase requires an affirmative legislative act is further supported by the plain language of the various sections of the Act pertaining to changes in the number of tables allowed within a gambling establishment and in a jurisdiction, as well as in the number of gambling establishments allowed. (See Bus. & Prof. Code, §§ 19961, subd. (a), 19961.06, 19961.07, subd. (a), 19965.)

Moreover, the increase in the number of tables allowed within the City, by virtue of an automatic increase in the number of cardrooms read into Section 5.20.505, subdivision C, also runs afoul of Business and Professions Code section 19961, subdivision (a)(1), which requires an affirmative vote of the electors in order to implement an increase of 25 percent or more in the number of tables or cardrooms allowed within the jurisdiction when compared to the number allowed on January 1, 1996. Even then, Business and Professions Code section 19962, subdivision (b)(1), prohibits the amendment of an ordinance that expands gambling until January 1, 2043. (Bus. & Prof. Code, § 19962, subd. (c).) Any amendment to an ordinance or adoption of an ordinance on or after January 1, 2023, by a city, county, or city and county, that results in an expansion of gambling that was not authorized or permitted under the Act as of December 31, 2022, shall be invalid and preempted. (Bus. & Prof. Code, § 19961.07, subd. (b)(3).) Further, until January 1, 2043, the California Gambling Control Commission is prohibited from issuing a state gambling license for a gambling establishment that was not licensed to operate on December 31, 1999, unless an application to operate that establishment was on file with the Department prior to September 1, 2000. (Bus. & Prof. Code, § 19963, subds. (a), (d).) Consequently, the assessment that the City may authorize the operation of a maximum of 374 tables, and that the City may authorize the operation of 34 cardrooms, is misplaced. The Bureau recommends that the City revisit its analysis and amend Section 5.20.050, subdivision C, so as not to conflict with the City's Proposed Amendment and to bring it into compliance with the Act.

While the Bureau is required to review and comment upon proposed ordinance amendments, nothing contained herein shall be construed to authorize the operation of a gambling establishment in any manner that is inconsistent with the Act or any other applicable provision of law.

Dan Haverty, Interim City Manager, City of Folsom

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If you have any questions, or wish to submit further revisions to these ordinances, please contact Analyst Kenneth Larsen at (916) 559-6103, or by email at kenneth.larsen@doj.ca.gov. Thank you for your cooperation regarding this matter.

Sincerely,

Brent Y. Jo

Digitally signed by Brent

Y. Jo

Date: 2025.02.07

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BRENT Y. JO

Deputy Attorney General

For ROB BONTA
Attorney General