



BILL NO. 44

ORDINANCE NO. 2019-043

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
ADDING SECTION 2-319 OF THE FRESNO MUNICIPAL
CODE, RELATING TO CONFIDENTIALITY OF CLOSED
SESSION ATTORNEY-CLIENT PRIVILEGED
COMMUNICATIONS

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 2-319 is added to the Fresno Municipal Code to read:

SECTION 2-319. CLOSED SESSION ATTORNEY-CLIENT PRIVILEGE.

(a) ~~Any person, including~~ City officials and employees, and former City officials or employees, providing written materials or an image of written materials, or disclosing the content of materials, that are clearly marked "Confidential Closed Session Attorney-Client Privileged" or disclosing the content of closed session attorney-client privileged discussions, to any unauthorized person is prohibited. For the purpose of this Section, "unauthorized person" shall mean any person or entity to whom disclosure is not approved in advance by a majority vote of Council, or in advance in writing by the City Attorney.

(b) Whistleblower Protection. If an official or employee has a reasonable good faith belief that one or more other city officials or employees are violating the law, but the belief is based upon confidential closed session attorney-client privileged communication or records, then

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Date Adopted: 11/14/2019
Date Approved: 11/20/2019
Effective Date: 12/21/2019

Ordinance No. 2019-043



that official or employee may then contact law enforcement authorities and disclose that confidential information necessary to address the claimed legal violation. Compliance with this paragraph shall not constitute a violation of this ordinance.

(c) A waiver of the closed session attorney-client privilege may be approved only by Council majority vote or pursuant to a claim or defense asserted by the City Attorney in a legal matter.

(d) If a person has any concern whether particular information or records are confidential and subject to this ordinance, that person may contact the City Attorney for written advice. If that person then follows the written advice provided by the City Attorney that the particular information or records are not confidential or may be disclosed to a certain person, then that shall constitute a complete defense to a claim of violation of this ordinance.

(e) The City Attorney, or independent counsel hired by the City Attorney or the Council, may prosecute willful violations as a misdemeanor with maximum penalties as set forth in this code. If a city elected official is suspected of violating this Section, the Council will hold a closed session and give direction on how to proceed.

SECTION 2. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the 14th day of November, 2019.

AYES : Bredefeld, Chavez, Karbassi, Caprioglio
NOES : Arias, Esparza, Soria
ABSENT : None
ABSTAIN : None

Mayor Approval: November 20th, 2019
Mayor Approval/No Return: N/A, 2019
Mayor Veto: N/A, 2019
Council Override Vote: N/A, 2019

YVONNE SPENCE, MMC CRM
City Clerk

BY: Yvonne Spence 11/22/19
Deputy Date

APPROVED AS TO FORM:

DOUGLAS T. SLOAN,
City Attorney

BY: Katie Doerr 11/21/19
Date
Chief Assistant City Attorney



November 15, 2019

Council Adoption: 11/14/19
Mayor Approval:
Mayor Veto:
Override Request:

TO: MAYOR LEE BRAND

FROM: YVONNE SPENCE, MMC
City Clerk

Ys

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 11/14/19, Council adopted the attached Bill No. B-44 and Ordinance No. 2019-043 entitled, **Adding Section 2-319 of the Fresno Municipal Code, relating to confidentiality of closed session attorney-client privileged communications. as amended** Item No. 11:00 am, ID#19-11554, by the following vote:

Ayes	:	Bredefeld, Caprioglio, Chavez and Karbassi
Noes	:	Arias, Esparza and Soria
Absent	:	None
Abstain	:	None

Amendment: If a city elected official is suspected of violating this Section, the Council will hold a closed session and give direction on how to proceed.

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before November 25, 2019. In computing the ten-day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10th day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

APPROVED/NO RETURN: _____

VETOED for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

Lee Brand, Mayor

COUNCIL OVERRIDE ACTION:

Ayes	:
Noes	:
Absent	:
Abstain	:

Date: _____

Date: _____

11-20-19
CITY OF FRESNO
CITY CLERK'S OFFICE
NOV 20 P 3:52
RECEIVED



DOUGLAS T. SLOAN
City Attorney

November 18, 2019

MEMORANDUM

TO: YVONNE SPENCE, CMC
CITY CLERK

YPS

RE: Technical Correction to Bill No. is 44, Ordinance number 2019-043, of the November 14, 2019, Regular Meeting of the City of Fresno

On November 14, 2019, Council adopted Bill 44. The adopted bill inadvertently failed to delete language, three words, that was consistent with a prior version. The updated version is consistent with Council's expressed intent. The correct version is attached hereto. This correction does not affect or alter the intent of the ordinance.

Respectfully submitted,

DOUG SLOAN
City Attorney
Attachment

RECEIVED

2019 NOV 22 A 8:57

CITY OF FRESNO
CITY CLERK'S OFFICE