

BILL NO.

ORDINANCE NO.

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

1 of 3

Date Adopted: Date Approved Effective Date:

City Attorney Approval: _____

Ordinance No.

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.

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 _____ day of _____ 2019.

AYES :
NOES :
ABSENT : ABSTAIN :

Mayor Approval: _____, 2019
Mayor Approval/No Return: _____, 2019
Mayor Veto: _____, 2019
Council Override Vote: _____, 2019

YVONNE SPENCE, MMC CRM

City Clerk

BY: _____

Deputy

Date

APPROVED AS TO FORM:

DOUGLAS T. SLOAN,
City Attorney

BY: _____

Katie Doerr Date

Chief Assistant City Attorney