



FRESNO MADERA CONTINUUM OF CARE

July 6, 2023

The Honorable Jerry Dyer
Mayor of City of Fresno
2600 Fresno Street
Fresno, CA 93721

RE: Sections 10-2101 & 10-2102 of the City of Fresno Municipal Code

Dear Mayor Dyer:

On behalf of the Fresno Madera Continuum of Care we request an in-person meeting to discuss the recent adoption of Sections 10-2101 *et seq.* of the Fresno Municipal Code. As concerned members of the [Fresno Madera Continuum of Care \(FMCoC\)](#) we believe that this Ordinance criminalizes the presence and possessions of people experiencing homelessness in various locations throughout Fresno.

The Fresno Madera Continuum of Care currently receives approximately \$11.7 million annually through the Department of Housing and Urban Development (HUD). HUD requires that CoCs “implement specific strategies to prevent the criminalization of homelessness within the CoC’s geographic area” and “work with law enforcement and their state and local governments to eliminate policies and practices that criminalize homelessness.” The City of Fresno’s Ordinance potentially jeopardizes the CoC’s HUD funding for permanent housing and supportive services for people experiencing homelessness within Fresno and Madera counties. A full accounting of these dollars and additional information regarding this analysis is included as an attachment to this letter.

The FMCoC recognizes the City of Fresno’s commitment to providing supportive services and housing to the unhoused community that is equitable and compassionate, and believe it is your desire to support policies that further this work, not hinder it. With July 5th release of the 2023 NOFO, it is important that we meet before the CoC’s application for funding is due in September.

Thank you in advance for your consideration of our request. We look forward to hearing from you soon.

Respectfully,

Jody Ketcheside, Vice Chair
Fresno Madera Continuum of Care
Attachment

www.fresnomaderahomeless.org

Commented [MS1]: Phil to update and add each City contact

Attachment

The Fresno Madera Continuum of Care assists homeless persons making the critical transition from homelessness to independent or supportive permanent housing which includes accessing education, health and mental health services, employment training, and life skills development. We facilitate a coordinated, unduplicated, and seamless provision of services for our community’s homeless population and are responsible for the Fresno and Madera regional 10-year plan to end homelessness through providing various types of housing and supportive services. Our programs operate within a low barrier framework, an evidence-based approach that ensures homelessness is rare, brief, and non-recurring. The CoC’s programming aims to reduce contact with the criminal justice system that results from people experiencing unsheltered homelessness engaging in life-sustaining activities like sitting or lying in public.

Annually Renewable HUD CoC Funding May Be Jeopardized

Additionally, the Fresno Madera Continuum of Care currently receives approximately \$11.7 million annually through Department of Housing and Urban Development (HUD) Continuum of Care (CoC) Notice of Funding Opportunity (NOFO) funding. Most of this funding is spent on projects operating within the City of Fresno (see table below). This funding increases annually depending on many factors, one of which is the CoC’s performance in the annual CoC NOFO funding competition. In the 2023 NOFO HUD added to its “HUD Homeless Policy Priorities” a statement that says: “CoCs should work with law enforcement and their state and local governments to eliminate policies and practices that criminalize homelessness.” Additionally, annually, during the funding competition, HUD requires that CoCs “implement specific strategies to prevent the criminalization of homelessness within the CoC’s geographic area.” HUD provides specific examples of what it means to criminalize homelessness, which include: “banning camping or sleeping in public; vagrancy, sitting, loitering, or begging in public places; evictions from homeless camps (homeless sweeps), restrictions on panhandling; and banning living in vehicles.” The City of Fresno’s recently adopted Ordinance meets HUD’s definition of criminalization and will negatively affect the CoC’s score during this annual funding competition, which may lead to less funding awarded for permanent housing and services for people experiencing homelessness within Fresno and Madera counties.

FRESNO MADERA CONTINUUM OF CARE
2022 FINAL AWARD LISTING March 28, 2023

| Tier I | | | | | | | | |
|--------|--------|-------------------------------------|-----------------------------|-----------------|--------------|------------------|-----------------------|------------|
| Rank | Score | Agency | Project | Type of Funding | Project Type | Amount Requested | Amount Awarded by HUD | Difference |
| 1 | 105.4 | Turning Point of Central California | Stasis | Renewal | PSH | \$493,112.00 | \$493,112 | \$0 |
| 2 | 104.74 | Turning Point of Central California | Falcon Court | Renewal | PSH | \$970,860.00 | \$970,860 | \$0 |
| 3 | 103 | Turning Point of Central California | Family Villa | Renewal | PSH | \$754,607.00 | \$754,607 | \$0 |
| 4 | 101.6 | Turning Point of Central California | Family Villa Expansion | New | PSH | \$589,961.50 | \$589,961 | \$.50 |
| 5 | 101.2 | Turning Point of Central California | Serenity Village | Renewal | PSH | \$205,042.00 | \$205,042 | \$0 |
| 6 | 100.96 | CAP Madera | Shuammitte Place | Renewal | PSH | \$604,468.00 | \$604,468 | \$0 |
| 7 | 100.2 | CAP Madera | CES Project | New | SSO | \$208,820.50 | \$208,820 | \$.50 |
| 8 | 98.6 | WestCare | Project Liftoff | Renewal | PSH | \$332,886.00 | \$332,886 | \$0 |
| 9 | 98.1 | Fresno EOC | Project Hearth | Renewal | PSH | \$306,962.00 | \$306,962 | \$0 |
| 10 | 97.2 | Housing Authority City of Fresno | PSH Trinity | Renewal | PSH | \$64,783.00 | \$64,783 | \$0 |
| 11 | 96.84 | Housing Authority City of Fresno | Renaissance at Santa Clara | Renewal | PSH | \$88,390.00 | \$88,390 | \$0 |
| 12 | 96.52 | Housing Authority City of Fresno | Shelter Plus Care 1 | Renewal | PSH | \$784,050.00 | \$784,050 | \$0 |
| 13 | 96.32 | Housing Authority City of Fresno | PSH Blackstone | Renewal | PSH | \$44,130.00 | \$44,130 | \$0 |
| 14 | 92.72 | Fresno EOC | Project Rise | Renewal | PSH | \$51,178.00 | \$51,178 | \$0 |
| 15 | 90.86 | Fresno EOC | Project Phoenix | Renewal | PSH | \$452,264.00 | \$452,264 | \$0 |
| 16 | 89.6 | Valley Teen Ranch | Valley Teen Ranch | Renewal | TH | \$30,620.00 | \$30,620 | \$0 |
| 17 | 84.28 | Marjaree Mason Center | Welcome Home 3 | Renewal | RRH | \$306,573.00 | \$306,573 | \$0 |
| 18 | 83.52 | Marjaree Mason Center | Clovis Transitional Project | Renewal | TH | \$222,501.00 | \$222,501 | \$0 |

| | | | | | | | | |
|-----|-------|---|-------------------------------|---------|--------|--------------|--------------|-----|
| 19 | N/A | Poverello House | CES Management Entity | Renewal | SSO | \$619,103.00 | \$619,103 | \$0 |
| 20 | N/A | Poverello House | Poverello House RRH Project | Renewal | RRH | \$311,886.00 | \$311,886 | \$0 |
| 21 | N/A | Valley Teen Ranch | Valley Teen Ranch RRH Project | Renewal | RRH | \$84,144.00 | \$84,144 | \$0 |
| 22 | N/A | Westside Family Preservation Services Network: Huon | WFPSN DV RRH Project | Renewal | TH-RRH | \$607,008.00 | \$607,008 | \$0 |
| 23 | N/A | Housing Authority City of Fresno | HMIS II Expansion | Renewal | HMIS | \$245,770.00 | \$245,770 | \$0 |
| 24 | N/A | Housing Authority City of Fresno | HMIS Expansion | Renewal | HMIS | \$76,500.00 | \$76,500 | \$0 |
| 25 | N/A | Fresno EOC | HERO Team 2 expansion | Renewal | SSO | \$525,000.00 | \$525,000 | \$0 |
| 26 | N/A | WestCare | Coordinated Entry 2022 | Renewal | SSO | \$534,169.00 | \$534,169 | \$0 |
| 27 | N/A | Marjaree Mason Center | DV Coordinated Entry System | Renewal | SSO | \$385,633.00 | \$385,633 | \$0 |
| 28 | N/A | Marjaree Mason Center | DV Coordinated Entry System 2 | Renewal | SSO | \$384,957.00 | \$384,957 | \$0 |
| 29a | 82.28 | Marjaree Mason Center | Welcome Home | Renewal | RRH | \$137,918.00 | \$137,918.00 | \$0 |

| Tier II | | | | | | | | |
|----------|-------|----------------------------------|----------------------------|-----------------|--------------|--------------|-----------------------|-------------|
| Rank | Score | Agency | Project | Type of Funding | Project Type | Grant Amount | Amount Awarded by HUD | Difference |
| 29b | 82.28 | Marjaree Mason Center | Welcome Home | Renewal | RRH | \$44,641.00 | \$44,641.00 | \$0 |
| 30 | 75.72 | Marjaree Mason Center | Welcome Home 2 | Renewal | RRH | \$257,164.00 | \$257,164 | \$0 |
| 31 | 95.24 | Housing Authority City of Fresno | Shelter Plus Care 4 | Renewal | PSH | \$432,943.00 | \$432,943 | \$0 |
| 32 | 88.4 | Fresno EOC | Project Rise PSH Expansion | New | PSH | \$383,494.00 | Not Awarded | Not Awarded |
| Planning | | | | | | | | |
| N/A | N/A | Housing Authority City of Fresno | Planning Grant | Renewal | Planning | \$335,473 | \$335,473 | \$0 |

Infractions Disrupt Housing Stability Through Fines & Fees Extraction, Court System Involvement, and Potential Jail Time

Fines & Fees Extraction

This new Ordinance imposes fines for infractions with additional statutory fees that will likely be out of reach for most people charged with violations. A [recent study](#) found that for a \$100 base fine in California, the fees increase the total owed to \$490, which can rise to \$815 if the person misses a deadline to pay. Nationally, [four in ten people cannot afford a \\$400](#) emergency and in California, infraction offenses [generate crippling debts](#) for our residents. California non-traffic infractions have the lowest clearance rate of all criminal charges (46%). Infractions force people to choose between rental deposits, medication, food, transportation, and court compliance, and could be the tipping point between not being able to pay rent and edged into experiencing homelessness.

For those charged with the misdemeanor portion of the Ordinance for “willful” violations, the consequences are compounded. A [randomized control trial](#) of misdemeanor financial penalties found that “fines and fees did contribute to the criminalization of low-income defendants and placed them at risk of ongoing court involvement through new warrants and debt collection.” When the debts are higher and longer periods of time are required for payment, new fees can be added at every court date, sinking people into more debt and difficult choices.

Court System Involvement

People cited with infractions are not entitled to a public defender, and therefore must navigate the court system alone. If they cannot pay the entire amount of the fine and fees, they will need to schedule or attend a first court date to plead, and then return for a trial, which requires ongoing access to transportation and a method to save critical court information. Misinformation about the court system leads people to believe they will be arrested simply for showing up to court without payment, instead of understanding they can plead not guilty. This deters participation in their case. If property is confiscated under the ordinance, information with court dates and case numbers become unavailable, and the person may not know how to retrieve that information directly from the court.

Even if a person charged with an infraction under the ordinance had some financial means to pay the debt, the lack of a bank account, consistent cell phone service, credit card, online access, transportation to the court (if they permit in-person payment), or a return address are all barriers to completing payment, which forces them into the court system for resolution. If a court date changes because a judge is out or a natural disaster like fire closes the court, a person experiencing homelessness is unlikely to learn of the new court date due to lack of a consistent mailing address, which also leads to non-compliance and increased debt.

Potential Jail Time

When an individual cannot pay the fines and fees by the deadline imposed, or does not appear for a court date, they risk arrest. [Fresno County issues bench warrants](#) for failures to appear or pay for infractions, and misdemeanor arrests are permitted under the “willful” violations of the ordinance. Fresno already has the [highest percentage of people living below poverty in our jail](#) across California counties (25.6%). [Research](#) demonstrates that even one day in jail increases the statistical likelihood of re-arrest. This is because spending a night or two in jail can mean missing work or losing a spot at a shelter, further entrenching unsheltered homelessness when people are left with no options but to engage in life-sustaining activities in public.

The Ordinance Decreases Housing Options and Opportunities by Creating a Criminal Record and Interrupting Programs

An infraction creates a criminal record. While the record can be expunged [after fines and fees are paid](#), courts may charge a fee and [attorneys can charge as much as \\$900](#) for the service. Misdemeanor expungements cost more. Because the people mostly likely to be charged under the ordinance are experiencing homelessness and living in poverty, they are unlikely to successfully expunge their record. [Nine in ten landlords conduct criminal background checks](#), and the criminal background, in combination with a credit check that may show criminal court debt that went to collections, can lead to limited housing options for people who previously experienced unsheltered homelessness.

Those held in carceral custody face potential loss of reentry housing if the arrest or lack of participation in programming are conditions of maintaining that housing. Places on waiting lists for public housing could be lost due to missed communications about applications or a deeper inquiry into an arrest record, permitted under the administrative plans of our local housing authorities. Under [federal statutes](#), we as recipients of federal grant funding must adhere to rules regulating expenditure of program funds, whether for admission or termination, on people who lose certain statuses after 90 days in jail.

New Infractions Further Exacerbate Race and Disability Inequities in Fresno

Non-traffic infractions are increasing as a percentage of California’s overall criminal filings (up 29% between 2009 and 2019). Citations for sleeping, sitting, or loitering are the most frequently given citations across jurisdictions (37%). In Fresno, [Black adults are 2.5 times more likely](#) to be stopped by the Fresno Police and given a citation for an infraction than White adults. Latinx adults are 1.3 times more likely to be cited than White adults. These statistics compound inequities for people who have experienced incarceration, particularly [formerly incarcerated Black men who already have higher rates of unsheltered homelessness](#) than White or Latinx men. The ordinance could also put the unsheltered homeless at risk for their safety, for [similar laws have been associated with an increase in violence against those perceived as homeless](#).

[People with disabilities, and even more so people of color with disabilities, are more likely to be arrested than people without disabilities](#). This is [particularly true for people with cognitive disabilities](#), who may not understand what an enforcement officer is asking them to do under the ordinance, potentially increasing the charge from an infraction to the “willful” misdemeanor charge. The [chronically homeless are most likely to fall subject to punishment](#) for the life-sustaining activities that are prohibited under the ordinance. The federal definition of chronic homelessness includes the existence of a qualifying disabling condition. In our experience, the chronically homeless most successfully transition to permanent housing through tailored supportive services offered through continuum of care programs working in collaboration.

Repealing of the Ordinance is Smart Policy that Moves Fresno in the Right Direction

We know homelessness is a complex social problem, which does not lend itself to simple solutions. Yet we believe that great strides can be made toward ending homelessness by addressing housing issues, then ensuring that there are the resources and supports in place to sustain that housing. As it is [likely this ordinance will be litigated](#), we encourage you to work with the Fresno City Council to repeal this Ordinance as a sound economic decision that prevents wasting resources and distracting people from housing opportunities that can truly decrease unsheltered homelessness. Criminalizing life-sustaining activities for people experiencing unsheltered homelessness is not only ineffective, but harmful.

Only through comprehensive, cross-system strategies will we be able to fully assist people in accessing and sustaining affordable housing, achieve community integration, and maintain economic stability, as exemplified by this recent report out from [Houston](#) and our ongoing collaboration through the Encampment Resolution Fund.