AGENDA REPORT

FOR: City Council

TO: Dave Zabell, City Manager
    Rick White, Director
    Community & Economic Development

Workshop Meeting: 3/11/19

FROM: Jeff Adams, Associate Planner
    Community & Economic Development

SUBJECT: Homeless Temporary Shelters

I. REFERENCE(S):

    Proposed Ordinance
    Planning Commission Packet Dated: 2/21/2019
    Planning commission Minutes Dated: 1/17/2019 and 2/21/2019

II. ACTION REQUESTED OF COUNCIL / STAFF RECOMMENDATIONS:

    Discussion

III. FISCAL IMPACT:

IV. HISTORY AND FACTS BRIEF:

    On January 22, 2018 the City Council held a workshop to discuss homeless shelter provisions for religious organizations. City Council subsequently sent the item to the Planning Commission for review.

    Staff subsequently worked with the City Attorney's office over the space of several months to address concerns and to craft a useable and defensible ordinance.

    In November and December of 2018 the Planning Commission held Workshops to discuss the code amendment for temporary homeless shelters for religious organizations. Staff explained to the Planning Commission that court cases have clearly trended towards religious organizations being able to use their property for that purpose.

    In January of 2019 the Planning Commission held a public hearing to consider amending PMC Title 25 by creating a new Chapter 25.99 "Homeless Temporary
Shelters." Following the conduct of a public hearing, the Planning Commission
reasoned it would be appropriate to recommend approval of that code provision
through the attached ordinance.

V. DISCUSSION:

Both state and federal law allow discretion to religious organizations that provide
services for the homeless (including homeless shelters) and the needy as part of their
core mission on property that is owned or controlled by them. In effect, this establishes
a limited "preemption" of full local control of land use issues involving establishing
and conducting homeless facilities or services.

The proposed ordinance:

- requires a Special Permit application;
- focuses specific requirements of the shelter on health, safety, and general
  welfare of both site occupants and surrounding neighbors;
- establishes a maximum timeframe for the duration of the temporary shelter;
- addresses site security through photo ID requirements, simple background
  checks, security plans, codes of conduct and prohibition of alcohol,
  nonprescription drugs, weapons, violence and open fires.

Both legal and municipal authorities recommend that communities prepare ordinances
that detail the requirements for religious organizations that wish to sponsor homeless
shelters before the community is faced with an immediate application for a shelter.
Municipalities cannot necessarily deny religious organizations from establishing
shelters, but they can be reasonably regulated.

Staff requests Council consideration and discussion of the proposed ordinance
establishing criteria for temporary homeless shelters for religious organizations.
ORDINANCE NO. ________

AN ORDINANCE of the City of Pasco, Washington
Creating Chapter 25.99 “Homeless Temporary Shelters”.

WHEREAS, RCW 35A.21.360 allows for religious organizations to host temporary shelters for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings; and

WHEREAS, the City wishes to establish a system that protects public health and safety and does not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF PASCO, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. That Chapter 25.99 of the Pasco Municipal Code entitled “Homeless Temporary Shelters” shall be and hereby is created and shall read as follows:

Chapter 25.99

HOMELESS TEMPORARY SHELTERS

Sections:

25.99.010 Purpose and Duty.
25.99.030 Special Permit Required – Who May Apply.
25.99.040 Application Procedures.
25.99.050 Requirements for Approval.
25.99.070 Requirements Upon Approval.
25.99.080 Fire, Safety, and Health.
25.99.090 Limitations.
25.99.100 Revocation.
25.99.110 Proof of Insurance.
25.99.120 Emergency Shelters.
25.99.130 Penalty for Violations.
25.99.140 Severability.

25.99.010 PURPOSE AND DUTY. The City recognizes the rights of religious organizations to exercise their religious liberties and understands that this religious exercise may include hosting those who are homeless or transient. It is the purpose of this Chapter to provide a standardized application process for a special permit for those religious organizations wishing to
host homeless persons. It is also the purpose of this Chapter to provide for standards that will protect the health, safety, and welfare of both the hosted residents and the public.

Nothing in this Chapter is intended nor shall be construed to create or form the basis of liability on the part of the City or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the interpretation or enforcement of this Chapter by its officers, employees, or agents.

25.99.020 DEFINITIONS. For the purposes of this Chapter, the following words and terms shall have the meaning ascribed to them by this section:

A) “Approved shelter” means a car, tent, trailer, camper, or a structure approved by the Director or his/her appointee that is less than 100 square feet in total floor area and has no kitchen or plumbing facilities but may have electricity so long as the wiring has been inspected and approved by the appropriate governmental agency.

B) “City” means the City of Pasco, Washington.

C) “Department” means the City’s Community & Economic Development Department.

D) “Director” means the Director of the City’s Community & Economic Development Department.

E) “Entrance attendee” means an individual appointed by the managing agency that is at least eighteen years of age and at least one of the following:

   1) A volunteer, agent, member, or employee of the managing agency; or

   2) A permitted temporary shelter resident authorized by the managing agency to serve as the entrance attendee.

(F) “Managing agency” means a religious organization applying for, hosting, and operating a permitted temporary shelter that owns or controls the site where the permitted temporary shelter is or will be situated.

G) “Managing agency contact” means an individual appointed by the managing agency that is at least eighteen years of age and a volunteer, agent, member, or employee of the managing agency that serves as the contact person for the managing agency available twenty-four hours a day, seven days a week. The managing agency contact need not be a singular individual.

H) “Occupancy registration” means a City-issued permit for the operation of a noncommercial use not otherwise regulated by Chapter 5.04 PMC.
I) “Permitted temporary shelter” means a temporary shelter operated by a managing agency that provides housing or shelter to homeless persons in compliance with the provisions of this Chapter.

J) “PMC” means the Pasco Municipal Code;

K) “Religious organization” means the federally-protected practice of a recognized religious assembly, school or institution that owns or controls the property upon which a permitted temporary shelter is located or proposed.

L) “Site” means the property or part of the property where the permitted temporary shelter is or will be situated.

M) “Special permit” means a special permit granted to a religious organization by the City’s Community & Economic Development Department to host and serve as the managing agency of a permitted temporary shelter.

25.99.030 SPECIAL PERMIT REQUIRED – WHO MAY APPLY.

A) For-profit businesses otherwise regulated by Title 5 PMC are excluded from the provisions of this Chapter.

B) It is unlawful for any person to erect, maintain, place, permit to be or remain in or upon any private lot, building, structure or premises in the City any temporary camp, encampment, shelter, or collection of shelters that allows for homeless or transient individuals to stay overnight without a valid special permit for a permitted temporary shelter granted by the City. This Subsection shall not apply to residents or visitors of any temporary camp, encampment, shelter, or collection of shelters unless they own or control the private lot, building, structure or premises where the temporary camp, encampment, shelter, or collection of shelters is situated or are a volunteer, agent, member, or employee of the person that owns or controls the private lot, building, structure, or premises.

C) Special permits for a permitted temporary shelter shall be granted only to bona fide, tax-exempt religious organizations.

25.99.040 APPLICATION PROCEDURES. Each managing agency shall apply for a special permit under this section and shall certify compliance with all applicable requirements for approval and conditions of this Chapter and the application.

A) As part of the special permit review process the managing agency shall submit an application to the Department containing the following information:

1) The name, street address, and telephone number of the managing agency;
2) The name, street address, and telephone number of the managing agency contact;

3) A site plan showing the proposed location, street address, dimensions, and layout of the proposed permitted temporary shelter;

4) The length of time the managing agency expects to operate the proposed permitted temporary shelter;

5) A signed and notarized statement from the owner of the Site stating that the managing agency lawfully owns or controls the site in a way that will endure for at least the expected operational time of the proposed permitted temporary shelter specified in the application;

6) The maximum number of residents proposed at the proposed permitted temporary shelter;

7) The dates the managing agency intends to begin and end operation of the proposed permitted temporary shelter;

8) A copy of the managing agency’s plan for reporting the period of time residents resided at the proposed permitted temporary shelter and when residents left the proposed permitted temporary shelter to live in permanent housing or other temporary housing;

9) A copy of the managing agency’s operations and security plan and a code of conduct that satisfies the requirements of PMC § 25.99.050(B); and

(10) Proof of insurance that satisfies the requirements of PMC § 25.99.110.

B) Other special conditions not present in Subsection (A) of this Section may be required of the managing agency as part of the special permit review process at the discretion of the Department.

C) There shall be no fee required of an applicant qualified to apply for and receive a special permit for a permitted temporary shelter under this Chapter.

D) In addition to the requirements for special permit review, the following additional procedures apply:

1) Occupancy Registration Required. Upon receipt of a special permit the managing agency shall obtain an occupancy registration pursuant to Chapter 5.07 PMC through the Department a minimum of fourteen days before the proposed date of establishment for the permitted temporary shelter. The Occupancy Registration shall be valid for a maximum of one hundred eighty (180) days.
2) Pasco School District #1 Notified. In addition to the notice requirements of Title 4 PMC, upon receipt of an application for a special permit for a permitted temporary shelter the Director shall send a copy of the application to the administrative offices of the Pasco School District #1 for its review and consideration.

3) Continuum of Care/Mental Health Providers Notified. In addition to the notice requirements of Title 4 PMC, upon receipt of an application for a special permit for a permitted temporary shelter the Director shall send a copy of the application to the administrative offices of the Pasco Continuum of Care and/or to mental health providers within the city of Pasco for review and consideration.

25.99.050 REQUIREMENTS FOR APPROVAL. The City may issue a temporary and revocable special permit for a permitted temporary shelter subject to the following criteria and requirements:

A) Site Criteria.

1) Size. The property must be sufficient in size to accommodate the maximum number of residents and, for permitted temporary shelters not situated within a permanent structure, must have necessary on-site facilities, including but not limited to the following:

(a) A food tent or building and host tent or building;
(b) Sanitary toilets in the number required to meet capacity guidelines;
(c) Hand washing facilities near the toilets and by any food areas; and
(d) Refuse receptacles.
(e) Verified service contracts for all temporary facilities for the duration of the temporary shelter.

2) Water Source. The managing agency shall provide an adequate source of potable water to the permitted temporary shelter as approved by the City.

3) Sensitive Areas. No permitted temporary shelter shall be located within a sensitive or critical area or its buffer as defined in Title 28 PMC.

4) Limitation on Residents. For each permitted temporary shelter, the Department shall determine if the proposed maximum number of residents at the permitted temporary shelter is so great as to endanger public health and safety. In making this determination, the Department may consider the site’s size, location, structures, and any other relevant factors.

5) Parking. The site shall provide an adequate number of parking spaces for the number of vehicles used by permitted temporary shelter residents and staff. If the site has other uses besides the permitted temporary shelter, it shall be shown that the permitted temporary shelter will not create an undue shortage of required on-site parking for the other use or uses on the property.
6) Public Transportation. Whenever possible, the permitted temporary shelter should be located within one quarter mile of a bus stop with service seven days per week. If the permitted temporary shelter is not located within one quarter mile of a bus stop with service seven days per week, the managing agency shall demonstrate the ability for residents to obtain access to the nearest public transportation stop, such as carpools or shuttle buses.

7) Screening. The permitted temporary shelter shall be adequately buffered and screened to be sight-obscuring from adjacent rights-of-way and residential properties. Screening shall be a minimum height of six feet and may include, but is not limited to, a combination of fencing, landscaping, or the placement of the permitted temporary shelter behind buildings. The type of screening shall be approved by the City.

8) Privacy for Sanitary Facilities. All sanitary portable toilets shall be screened to be sight-obscuring from adjacent properties and rights-of-way. The type of screening shall be approved by the City and may include, but is not limited to, a combination of fencing and/or landscaping.

9) Distance Requirements to Sensitive Land Uses. No permitted temporary shelter shall be permitted within three hundred feet of a licensed child daycare facility or any public or private pre-school or elementary, middle, or high school. However, this prohibition may be waived by provisions contained in the special permit if the owner of such daycare or school states in a signed and notarized statement that he or she agrees to the placement of the permitted temporary shelter on that site. Any such statement must be submitted to the Department either with the application for a special permit or within seven calendar days of the application’s submission.

10) Approved Shelters. Except as provided in Subsection C of this Section, no permitted temporary shelter shall be permitted unless the managing agency plans to shelter residents in approved shelters provided by the managing agency, provided by the residents themselves, or otherwise provided for the residents.

B) Security.

1) Operations and Security Plan. The managing agency shall demonstrate the capacity to implement the operations and security plan required by PMC § 25.99.040(A)(9).

2) Code of Conduct. The managing agency shall ensure that the permitted temporary shelter has a written, enforceable code of conduct which at a minimum prohibits alcohol, nonprescribed drugs, weapons, violence, and open fires. The code of conduct should also address other issues related to camp and neighborhood safety. The managing agency shall demonstrate the capacity to enforce the code of conduct.
3) In addition to the standards in this subsection, the managing agency may adopt and enforce additional code of conduct conditions not otherwise inconsistent with this section.

C) Indoor Permitted Temporary Shelters. The special permit may allow for an indoors permitted temporary shelter inside a permanent building or structure subject to the following criteria and requirements:

1) Compliance with Building Codes. An indoor permitted temporary shelter shall comply with the requirements of the City’s building codes. However, pursuant to RCW § 19.27.042, the City’s Inspection Services Division shall have the authority to exempt code deficiencies, but in no event will it exempt code deficiencies constituting a clear and present, grave and immediate danger to public health or safety.

2) Building Criteria. The buildings proposed for use shall be of sufficient size to accommodate the residents and must have necessary on-site facilities, including but not limited to the following:

   (a) An adequate supply of potable water;
   (b) Sanitary toilets in the number required to meet capacity guidelines;
   (c) Hand washing facilities by the toilets and food areas;
   (d) Refuse receptacles; and
   (e) Kitchen facilities for food preparation.

(3) All applicable health standards for providing and using facilities required under Subsection (C)(2) of this Section shall be satisfied as required by the City’s Inspection Services Division.

25.99.060 PROCESS FOR FINAL APPROVAL. Applications for a special permit for a homeless temporary shelter shall be processed pursuant to Title 4 PMC.

25.99.070 REQUIREMENTS UPON APPROVAL.

A) Signed Agreement. All permitted temporary shelter residents must sign an agreement to abide by the code of conduct required by PMC § 25.99.050(B)(2). Failure to do so shall result in the noncompliant resident’s immediate and permanent expulsion from the permitted temporary shelter. The managing agency shall be responsible to enforce each agreement.

   (B) Log of Overnight Guests. The managing agency shall keep a digital log of all individuals who stay overnight in the permitted temporary shelter. The log shall include the name and date of birth of each individual, and the dates that the individual spent at the permitted
temporary shelter. The log must be kept reasonably up-to-date. The log shall be maintained by the managing agency for a minimum of six months after it was last revised and shall be made available to the City’s Police Chief and the Director upon request.

C) Identification. The managing agency shall require verifiable photo identification documents of each and every individual who stays overnight in the permitted temporary shelter. Acceptable forms of photo identification documents for purposes of this section include a driver’s license, government-issued identification card, military identification document, or passport. If a verifiable photo identification document cannot be obtained, the individual must agree to be fingerprinted or the individual shall not otherwise be admitted to the camp. If the managing agency cannot obtain fingerprints from individuals, the City must either offer the services of the City’s Police Department to provide fingerprinting services at the site at no cost to the managing agency or issue the managing agency a waiver of the fingerprinting requirements of this subsection for each permitted temporary shelter.

D) Simple Background Checks. The managing agency shall engage the City’s Police Department to use the verifiable photo identification document to check each individual who stays overnight in the permitted temporary shelter for outstanding in-state and out-of-state warrants and the individual’s potential registered sex offender status. The City must either offer the services of the City’s Police Department to provide these background check services at no cost to the managing agency or issue the managing agency a waiver of the background check requirements of this subsection for each permitted temporary shelter.

1) Outstanding Warrants. If any warrant check reveals an existing or outstanding warrant from any jurisdiction in the United States, the managing agency shall immediately report the finding to the City’s Police Department for the apprehension of the individual.

2) Sex Offender Status. If the sex offender status check reveals that the individual is a registered sex offender, the individual shall not be admitted to the permitted temporary shelter.

E) Security. The managing agency shall ensure the permitted temporary shelter is secure and managed to strictly prohibit alcohol, prohibited drugs, weapons, fighting, abuse of any kind, littering, or other nuisances while located on the property. As necessary, the City’s Police Department shall be available to enforce state and local laws and ordinances. The managing agency may be billed for excessive use of City Police Department resources.

F) Entrance/Host Tent or Building; Entrance Attendee. The managing agency shall ensure there is an entrance/host tent or building at the permitted temporary shelter that is staffed twenty-four hours a day and seven days a week by at least one entrance attendee.

G) Managing Agency Contact. The managing agency contact shall serve on-call and be available for the entrance attendee twenty-four hours a day and seven days a week. The
managing agency contact shall be available to provide help and assistance to the entrance attendee as may be necessary to ensure the permitted temporary shelter functions properly.

H) Enforcement. The entrance attendee staffing the entrance shall notify the managing agency contact as necessary in the enforcement of permitted temporary shelter rules and expectations, and/or the City’s Police Department as necessary to enforce local and state laws. The entrance attendee shall also serve as a point-of-contact for the City’s Police Department and will orient the department on how the managing agency accepts and processes potential residents. The names of the entrance attendee will be posted daily at the entrance/host tent or building. The City shall provide contact telephone numbers of nonemergency personnel which shall be posted at the entrance/host tent or building.

I) Visitors. Visitors to the permitted temporary shelter must meet the following procedures and requirements:

1) The requirements that apply to individuals staying overnight in the permitted temporary shelter pursuant to Subsection (C) of this Section shall also apply to all visitors to the permitted temporary shelter.

2) Visitors shall be accompanied by the resident that invited the visitor while at the permitted temporary shelter.

3) Visitors shall be allowed to visit the permitted temporary shelter only between the hours of 9:00 a.m. and 10:00 p.m. After 10:00 p.m., all visitors must be evicted from the permitted temporary shelter.

4) Visitors may not stay overnight unless they receive permission from the managing agency and complete all requirements necessary to become a resident, including the requirements of Subsections (C) and (D) of this Section.

5) For purposes of this Section, the following shall not be considered visitors to the permitted temporary shelter:

   (a) Volunteers, agents, members, or employees of the managing agency rendering aid, care, assistance, security, or comfort to residents of the permitted temporary shelter;

   (b) Law enforcement personnel, including members of the City’s Police Department;

   (c) Emergency fire/medical personnel;

   (d) Entrance attendees; and

   (e) The managing agency contact.
J) Age Restrictions. Residents of the permitted temporary shelter must be at least eighteen years of age. No minors shall be permitted entrance to the permitted temporary shelter unless they are a relative of a resident of the permitted temporary shelter. Minors related to a resident may be admitted to the permitted temporary shelter as visitors pursuant to Subsection (I) of this Section.

25.99.080 FIRE, SAFETY, AND HEALTH. Permitted temporary shelters shall meet the following fire, safety, and health requirements:

A) Fire Safety. The permitted temporary shelter shall conform to the following requirements:

1) Open Fires. No open fires shall be permitted within approved shelters or outside an approved fire pit or appliance.

2) Heating Appliances. No heating appliances shall be permitted within approved shelters.

3) Cooking.

   (a) The managing agency may allow for a common tent to provide community cooking facilities and services for the permitted temporary shelter. Common tents shall be approved by the managing agency and the Department.

   (b) No cooking appliances shall be permitted within approved shelters.

4) Fire Extinguishers. The managing agency shall provide an adequate number and appropriate rating of fire extinguishers at the permitted temporary shelter as approved by the Department or the City’s Fire Department.

5) Emergency Access. The managing agency shall ensure that adequate access for fire and emergency medical personnel and apparatuses is provided for at the permitted temporary shelter, as determined by the City’s Fire Marshal.

6) Shelter Separation. The managing agency shall ensure that there is an adequate distance between approved shelters and other structures, as determined by the City’s Fire Marshal.

7) Electrical Service. Any electrical service provided to the permitted temporary shelter shall be in accordance with City code. Any electrical cords used outdoors shall be approved for outdoor use.

B) Health. The managing agency shall provide all necessary sanitary facilities, including temporary outhouses or portable toilets and facilities for hand-washing. All applicable
health standards for providing and using such facilities shall be satisfied as required by the Department. Facilities and staff shall be available to provide minor medical treatment to temporary shelter residents; excessive use of the city emergency medical services for non-emergent care will result in billing to the temporary shelter sponsor. Non-emergent care is defined as care that does not require transportation to the emergency room.

C) Access for Inspections. The managing agency shall permit inspections by City staff to ensure compliance with the conditions of this permit. Inspections shall occur at reasonable times and may occur without prior notice.

D) Approved Shelters. Residents of the permitted temporary shelter may reside only in approved shelters at the permitted temporary shelter.

25.99.090 LIMITATIONS.

A) Duration. Permitted temporary shelters may be approved for a time period not to exceed one hundred eighty (180) days.

B) Limitation. No other permitted temporary shelter, regardless of the managing agency, may occupy the same site as a previous homeless temporary shelter, whether it was permitted or unpermitted, until City staff has ensured that all residents of the previous temporary shelter and any temporary structures, tents, trailers, etc. have been completely vacated from the site.

25.99.100 REVOCATION. Upon determination that there has been a violation of any approval criteria or a condition of the special permit application or that the managing agency has failed to take action against a resident who violates the terms and conditions of the special permit, code of conduct, or has committed violence, the Director may give written notice to the managing agency describing the alleged violation. Within fourteen days of the mailing of the notice of violation, the managing agency shall show cause why the permit shall not be revoked. At the end of the fourteen-day period, the Director shall sustain or revoke the permit. When a special permit for a permitted temporary shelter is revoked, the Director shall notify the managing agency holding the permit by certified mail of the revocation and the findings upon which the revocation is based. Appeals of decisions to revoke a temporary permitted temporary shelter permit shall be to Franklin County Superior Court.

25.99.110 PROOF OF INSURANCE. A religious organization or managing agency shall show the City proof of general liability insurance with respect to a permitted temporary shelter with minimum limits of one million dollars per occurrence. The City shall not require a religious organization or managing agency to obtain insurance pertaining to the City’s liability with respect to permitted temporary shelters or otherwise require the religious organization or managing agency to indemnify the City against such liability.

25.99.120 EMERGENCY SHELTERS. The provisions of this Chapter shall not apply to emergency or cold weather shelters as defined in PMC 25.12.156 and permitted under the
provisions of PMC 25.86 where the screening of individuals to be temporarily housed in such shelters is conducted by a non-profit organization or a religious organization providing the emergency shelter.

25.99.130 PENALTY FOR VIOLATIONS.

A) Every person who violates PMC 25.99.030(B) has committed a code infraction and shall pay a penalty not to exceed five hundred dollars per incident.

B) Nothing in this Chapter shall be interpreted to prevent the applicability of Chapter 9.60 PMC (Public Nuisances) or Chapter 16.50 PMC (Unsafe and Unfit Buildings, Structures, and Premises) to homeless temporary shelters, either permitted or unpermitted.

25.99.140 SEVERABILITY. If any section, subsection, sentence, clause, phrase, or other portion of this chapter, or its application to any person, is for any reason declared invalid in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

Section 2. This Ordinance shall take full force and effect five (5) days after its approval, passage, and publication as required by law.

PASSED by the City Council of the City of Pasco, Washington, and approved as provided by law this ____ day of _________________, 2019.

_____________________________
Matt Watkins, Mayor

ATTEST: APPROVED AS TO FORM:

____________________________
City Clerk Kerr Ferguson Law Group, City Attorney
After many years of decline, homelessness in Washington is growing despite significant investment and efforts to reduce it over the last decade. Factors contributing to this rise include escalating housing costs, inadequate mental health and chemical dependency treatment systems, the opioid crisis, inadequate coordination of prevention efforts and levels of funding on the local, state and federal government levels.

**Contributing Factors**

Around 15% of all homeless adults were identified as survivors of domestic violence in a 2014 survey of 25 US cities. Abuse often leads the victim to seek shelter away from the abuser. Victims of abuse frequently lack resources to support themselves and sometimes end up homeless.

Between 20% and 25% of the homeless population in the United States suffers from some form of severe mental illness according to the Substance Abuse and Mental Health Services Administration. Serious mental illnesses disrupt people’s ability to carry out essential aspects of daily life, such as self-care and household management. Mental illnesses may also prevent people from forming and maintaining stable relationships or cause people to misinterpret others’ guidance and react irrationally. This often results in pushing away caregivers, family, and friends who may be the force keeping that person from becoming homeless.

Roughly 32% of individuals experiencing homelessness suffer from addiction to drugs and alcohol—a figure approximately 20% higher than reported abuse of alcohol and illicit drugs by the general population.

**Communities and Homelessness**

Homelessness is a regional issue that is not confined to any particular city or county and is an issue that presents complex difficulties. Solving this issue is next to impossible by any single provider of government services.

The cost of homelessness to taxpayers is significant in terms of increased police calls, emergency room visits and locally-funded homeless services. There are also indirect costs resulting from homeless services on public perception when those services are provided in business districts.

**Legal Issues**

Here in Washington State - many communities have experienced land use conflicts with homeless services and revitalization efforts - including neighboring communities here in our area. In March of 2017, City Council adopted an ordinance prohibiting unauthorized camping subject to the
availability of alternative accommodations - however this prohibition applies only to parks and other public locations.

Both state and federal law allow discretion to religious organizations that provide services for the homeless (including homeless shelters) and the needy as part of their core mission on property that is owned or controlled by them. In effect - this establishes a limited "pre-emption" of full local control of land use issues involving establishing and conducting homeless facilities or services.

Both legal and municipal authorities recommend that communities prepare ordinances that detail the requirements for religious organizations that wish to sponsor homeless shelters or encampments - before the community is faced with an immediate application for a shelter. Municipalities cannot necessarily deny religious organizations from establishing shelters or encampments, but they can be reasonably regulated. The regulations would be driven by conformance with state and local law that protect public interest, health and safety.

Possible Solutions

In researching municipalities that have established standards for regulating such facilities a potential land use ordinance could include at least the following provisions relating to such shelters or encampments:

- limiting the siting of such facilities on property owned or controlled by the religious organization;
- requirement to meet appropriate setbacks, buffering and other standards;
- limiting such facilities to specific zoning districts;
- limiting the maximum number of residents;
- requiring a minimum age for residents, e.g. eighteen;
- establishing a code of conduct to include prohibitions on illegal drugs, alcohol, weapons, loitering and other behaviors;
- conformance with state and local standards relating to drinking water, human and solid waste disposal, electric systems and fire systems;
- the conduct of appropriate background and identification checks (i.e; sex offenders and outstanding warrants) by the religious organization;
- conformance to a minimum distance between other shelters or encampments;
- conformance with a maximum time period for the duration of a shelter or encampment - including a separation period between such time periods; and
- irrevocable permission for the City to abate the use and reimbursement for those costs if the shelter or encampment is noncompliant with conditions of the ordinance or permit.
Preliminary Findings

1. Homelessness in Washington is growing.
2. Factors contributing to the rise in homelessness include but are not limited to the following:
   a. Escalating housing costs
   b. Inadequate mental health treatment systems
   c. Inadequate chemical dependency treatment systems
   d. The opioid crisis
   e. Inadequate coordination of prevention efforts, and
   f. Inadequate levels of funding on the local, state and federal government levels.
3. Around 15% of all homeless adults were identified as survivors of domestic violence.
4. Abuse often leads the victim to seek shelter away from the abuser.
5. Victims of abuse frequently lack resources to support themselves and sometimes end up homeless.
6. Between 20% and 25% of the homeless population in the United States suffers from some form of severe mental illness.
7. Serious mental illnesses disrupt people’s ability to carry out essential aspects of daily life, such as self-care and household management.
8. Mental illnesses may also prevent people from forming and maintaining stable relationships or cause people to misinterpret others’ guidance and react irrationally. This often results in pushing away caregivers, family, and friends who may be the force keeping that person from becoming homeless.
9. Roughly 32% of individuals experiencing homelessness suffer from addiction to drugs and alcohol.
10. The cost of homelessness to taxpayers is significant in terms of
   a. increased police calls,
   b. emergency room visits and
   c. locally-funded homeless services.
11. Homeless services provided in business districts affect public perception.
12. Many neighboring communities have experienced land use conflicts with homeless services and revitalization efforts.
13. In March of 2017 City Council adopted an ordinance prohibiting unauthorized camping subject to the availability of alternative accommodations.
14. The City of Pasco ordinance prohibiting unauthorized camping applies only to parks and other public locations.
15. Both state and federal law allow discretion to religious organizations that provide services for the homeless (including homeless shelters) and the needy as part of their core mission on property that is owned or controlled by them.
16. These state and federal laws establish a limited *de facto* "pre-emption" of full local control of land use issues involving establishing and conducting homeless facilities or services.
17. Legal and municipal authorities recommend that communities prepare ordinances that
detail the requirements for religious organizations that wish to sponsor homeless shelters
or encampments before the community is faced with an immediate application for a
shelter.
18. Municipalities cannot necessarily deny religious organizations from establishing shelters
or encampments, but they can be reasonably regulated.
19. The regulations must be driven by conformance with state and local law that protect
public interest, health and safety.

Staff recommends an ordinance (as per attached), permitting homeless uses via Hearing
Examiner Special Permit review process.

RECOMMENDATION

MOTION: I move the Planning Commission adopt the findings of fact as contained in the
February 21, 2019 staff memo regarding Temporary Shelters.

MOTION: I move the Planning Commission recommend the City Council adopt the proposed
code amendments regarding Temporary Shelters as attached to the February 21,
2019 staff memo to the Planning Commission.
ORDINANCE NO. ________

AN ORDINANCE of the City of Pasco, Washington Creating
Chapter 25.99 “Homeless Temporary Shelters”

WHEREAS, RCW 35A.21.360 allows for religious organizations to host temporary shelters for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings; and

WHEREAS, the City wishes to establish a system that protects public health and safety and does not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF PASCO, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. That Chapter 25.99 of the Pasco Municipal Code entitled “Homeless Temporary Shelters” shall be and hereby is created and shall read as follows:

Chapter 25.99

HOMELESS TEMPORARY SHELTERS

Sections:

25.99.010 Purpose and Duty.
25.99.030 Special Permit Required – Who May Apply.
25.99.040 Application Procedures.
25.99.050 Requirements for Approval.
25.99.070 Requirements Upon Approval.
25.99.080 Fire, Safety, and Health.
25.99.090 Limitations.
25.99.100 Revocation.
25.99.110 Proof of Insurance.
25.99.120 Emergency Shelters.
25.99.130 Penalty for Violations.
25.99.140 Severability.

25.99.010 PURPOSE AND DUTY. The City recognizes the rights of religious organizations to exercise their religious liberties and understands that this religious exercise may include hosting those who are homeless or transient. It is the purpose of this Chapter to provide
a standardized application process for a special permit for those religious organizations wishing to host homeless persons. It is also the purpose of this Chapter to provide for standards that will protect the health, safety, and welfare of both the hosted residents and the public.

Nothing in this Chapter is intended nor shall be construed to create or form the basis of liability on the part of the City or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the interpretation or enforcement of this Chapter by its officers, employees, or agents.

25.99.020 DEFINITIONS. For the purposes of this Chapter, the following words and terms shall have the meaning ascribed to them by this section:

A) “Approved shelter” means a car, tent, trailer, camper, or a structure approved by the Director or his/her appointee that is less than 100 square feet in total floor area and has no kitchen or plumbing facilities but may have electricity so long as the wiring has been inspected and approved by the appropriate governmental agency.

B) “City” means the City of Pasco, Washington.

C) “Department” means the City’s Community & Economic Development Department.

D) “Director” means the Director of the City’s Community & Economic Development Department.

E) “Entrance attendee” means an individual appointed by the managing agency that is at least eighteen years of age and at least one of the following:

1) A volunteer, agent, member, or employee of the managing agency; or

2) A permitted temporary shelter resident authorized by the managing agency to serve as the entrance attendee.

(F) “Managing agency” means a religious organization applying for, hosting, and operating a permitted temporary shelter that owns or controls the site where the permitted temporary shelter is or will be situated.

G) “Managing agency contact” means an individual appointed by the managing agency that is at least eighteen years of age and a volunteer, agent, member, or employee of the managing agency that serves as the contact person for the managing agency available twenty-four hours a day, seven days a week. The managing agency contact need not be a singular individual.
H) “Occupancy registration” means a City-issued permit for the operation of a noncommercial use not otherwise regulated by Chapter 5.04 PMC.

I) “Permitted temporary shelter” means a temporary shelter operated by a managing agency that provides housing or shelter to homeless persons in compliance with the provisions of this Chapter.

J) “PMC” means the Pasco Municipal Code;

K) “Religious organization” means the federally-protected practice of a recognized religious assembly, school or institution that owns or controls the property upon which a permitted temporary shelter is located or proposed.

L) “Site” means the property or part of the property where the permitted temporary shelter is or will be situated.

M) “Special permit” means a special permit granted to a religious organization by the City’s Community & Economic Development Department to host and serve as the managing agency of a permitted temporary shelter.

25.99.030 SPECIAL PERMIT REQUIRED – WHO MAY APPLY.

A) For-profit businesses otherwise regulated by Title 5 PMC are excluded from the provisions of this Chapter.

B) It is unlawful for any person to erect, maintain, place, permit to be or remain in or upon any private lot, building, structure or premises in the City any temporary camp, encampment, shelter, or collection of shelters that allows for homeless or transient individuals to stay overnight without a valid special permit for a permitted temporary shelter granted by the City. This Subsection shall not apply to residents or visitors of any temporary camp, encampment, shelter, or collection of shelters unless they own or control the private lot, building, structure or premises where the temporary camp, encampment, shelter, or collection of shelters is situated or are a volunteer, agent, member, or employee of the person that owns or controls the private lot, building, structure, or premises.

C) Special permits for a permitted temporary shelter shall be granted only to bona fide, tax-exempt religious organizations.

25.99.040 APPLICATION PROCEDURES. Each managing agency shall apply for a special permit under this section and shall certify compliance with all applicable requirements for approval and conditions of this Chapter and the application.
A) As part of the special permit review process the managing agency shall submit an application to the Department containing the following information:

1) The name, street address, and telephone number of the managing agency;

2) The name, street address, and telephone number of the managing agency contact;

3) A site plan showing the proposed location, street address, dimensions, and layout of the proposed permitted temporary shelter;

4) The length of time the managing agency expects to operate the proposed permitted temporary shelter;

5) A signed and notarized statement from the owner of the Site stating that the managing agency lawfully owns or controls the site in a way that will endure for at least the expected operational time of the proposed permitted temporary shelter specified in the application;

6) The maximum number of residents proposed at the proposed permitted temporary shelter;

7) The dates the managing agency intends to begin and end operation of the proposed permitted temporary shelter;

8) A copy of the managing agency’s plan for reporting the period of time residents resided at the proposed permitted temporary shelter and when residents left the proposed permitted temporary shelter to live in permanent housing or other temporary housing;

9) A copy of the managing agency’s operations and security plan and a code of conduct that satisfies the requirements of PMC § 25.99.050(B); and

10) Proof of insurance that satisfies the requirements of PMC § 25.99.110.

B) Other special conditions not present in Subsection (A) of this Section may be required of the managing agency as part of the special permit review process at the discretion of the Department.

C) There shall be no fee required of an applicant qualified to apply for and receive a special permit for a permitted temporary shelter under this Chapter.
D) In addition to the requirements for special permit review, the following additional procedures apply:

1) Occupancy Registration Required. Upon receipt of a special permit the managing agency shall obtain an occupancy registration pursuant to Chapter 5.07 PMC through the Department a minimum of fourteen days before the proposed date of establishment for the permitted temporary shelter. The Occupancy Registration shall be valid for a maximum of one hundred eighty (180) days.

2) Pasco School District #1 Notified. In addition to the notice requirements of Title 4 PMC, upon receipt of an application for a special permit for a permitted temporary shelter the Director shall send a copy of the application to the administrative offices of the Pasco School District #1 for its review and consideration.

3) Continuum of Care/Mental Health Providers Notified. In addition to the notice requirements of Title 4 PMC, upon receipt of an application for a special permit for a permitted temporary shelter the Director shall send a copy of the application to the administrative offices of the Pasco Continuum of Care and/or to mental health providers within the city of Pasco for review and consideration.

25.99.050 REQUIREMENTS FOR APPROVAL. The City may issue a temporary and revocable special permit for a permitted temporary shelter subject to the following criteria and requirements:

A) Site Criteria.

1) Size. The property must be sufficient in size to accommodate the maximum number of residents and, for permitted temporary shelters not situated within a permanent structure, must have necessary on-site facilities, including but not limited to the following:

(a) A food tent or building and host tent or building;
(b) Sanitary toilets in the number required to meet capacity guidelines;
(c) Hand washing facilities near the toilets and by any food areas; and
(d) Refuse receptacles.
(e) Verified service contracts for all temporary facilities for the duration of the temporary shelter

2) Water Source. The managing agency shall provide an adequate source of potable water to the permitted temporary shelter as approved by the City.

3) Sensitive Areas. No permitted temporary shelter shall be located within a sensitive or critical area or its buffer as defined in Title 28 PMC.
4) Limitation on Residents. For each permitted temporary shelter, the Department shall determine if the proposed maximum number of residents at the permitted temporary shelter is so great as to endanger public health and safety. In making this determination, the Department may consider the site’s size, location, structures, and any other relevant factors.

5) Parking. The site shall provide an adequate number of parking spaces for the number of vehicles used by permitted temporary shelter residents and staff. If the site has other uses besides the permitted temporary shelter, it shall be shown that the permitted temporary shelter will not create an undue shortage of required on-site parking for the other use or uses on the property.

6) Public Transportation. Whenever possible, the permitted temporary shelter should be located within one quarter mile of a bus stop with service seven days per week. If the permitted temporary shelter is not located within one quarter mile of a bus stop with service seven days per week, the managing agency shall demonstrate the ability for residents to obtain access to the nearest public transportation stop, such as carpools or shuttle buses.

7) Screening. The permitted temporary shelter shall be adequately buffered and screened to be sight-obscuring from adjacent rights-of-way and residential properties. Screening shall be a minimum height of six feet and may include, but is not limited to, a combination of fencing, landscaping, or the placement of the permitted temporary shelter behind buildings. The type of screening shall be approved by the City.

8) Privacy for Sanitary Facilities. All sanitary portable toilets shall be screened to be sight-obscuring from adjacent properties and rights-of-way. The type of screening shall be approved by the City and may include, but is not limited to, a combination of fencing and/or landscaping.

9) Distance Requirements to Sensitive Land Uses. No permitted temporary shelter shall be permitted within three hundred feet of a licensed child daycare facility or any public or private pre-school or elementary, middle, or high school. However, this prohibition may be waived by provisions contained in the special permit if the owner of such daycare or school states in a signed and notarized statement that he or she agrees to the placement of the permitted temporary shelter on that site. Any such statement must be submitted to the Department either with the application for a special permit or within seven calendar days of the application’s submission.

10) Approved Shelters. Except as provided in Subsection C of this Section, no permitted temporary shelter shall be permitted unless the managing agency plans to shelter residents in approved shelters provided by the managing agency, provided by the residents themselves, or otherwise provided for the residents.
B) Security.

1) Operations and Security Plan. The managing agency shall demonstrate the capacity to implement the operations and security plan required by PMC § 25.99.040(A)(9).

2) Code of Conduct. The managing agency shall ensure that the permitted temporary shelter has a written, enforceable code of conduct which at a minimum prohibits alcohol, nonprescribed drugs, weapons, violence, and open fires. The code of conduct should also address other issues related to camp and neighborhood safety. The managing agency shall demonstrate the capacity to enforce the code of conduct.

3) In addition to the standards in this subsection, the managing agency may adopt and enforce additional code of conduct conditions not otherwise inconsistent with this section.

C) Indoor Permitted Temporary Shelters. The special permit may allow for an indoors permitted temporary shelter inside a permanent building or structure subject to the following criteria and requirements:

1) Compliance with Building Codes. An indoor permitted temporary shelter shall comply with the requirements of the City’s building codes. However, pursuant to RCW § 19.27.042, the City’s Inspection Services Division shall have the authority to exempt code deficiencies, but in no event will it exempt code deficiencies constituting a clear and present, grave and immediate danger to public health or safety.

2) Building Criteria. The buildings proposed for use shall be of sufficient size to accommodate the residents and must have necessary on-site facilities, including but not limited to the following:

(a) An adequate supply of potable water;

(b) Sanitary toilets in the number required to meet capacity guidelines;

(c) Hand washing facilities by the toilets and food areas;

(d) Refuse receptacles; and

(e) Kitchen facilities for food preparation.
(3) All applicable health standards for providing and using facilities required under Subsection (C)(2) of this Section shall be satisfied as required by the City's Inspection Services Division.

25.99.060 PROCESS FOR FINAL APPROVAL. Applications for a special permit for a homeless temporary shelter shall be processed pursuant to Title 4 PMC.

25.99.070 REQUIREMENTS UPON APPROVAL.

A) Signed Agreement. All permitted temporary shelter residents must sign an agreement to abide by the code of conduct required by PMC § 25.99.050(B)(2). Failure to do so shall result in the noncompliant resident’s immediate and permanent expulsion from the permitted temporary shelter. The managing agency shall be responsible to enforce each agreement.

(B) Log of Overnight Guests. The managing agency shall keep a digital log of all individuals who stay overnight in the permitted temporary shelter. The log shall include the name and date of birth of each individual, and the dates that the individual spent at the permitted temporary shelter. The log must be kept reasonably up-to-date. The log shall be maintained by the managing agency for a minimum of six months after it was last revised and shall be made available to the City’s Police Chief and the Director upon request.

C) Identification. The managing agency shall require verifiable photo identification documents of each and every individual who stays overnight in the permitted temporary shelter. Acceptable forms of photo identification documents for purposes of this section include a driver’s license, government-issued identification card, military identification document, or passport. If a verifiable photo identification document cannot be obtained, the individual must agree to be fingerprinted or the individual shall not otherwise be admitted to the camp. If the managing agency cannot obtain fingerprints from individuals, the City must either offer the services of the City’s Police Department to provide fingerprinting services at the site at no cost to the managing agency or issue the managing agency a waiver of the fingerprinting requirements of this subsection for each permitted temporary shelter.

D) Simple Background Checks. The managing agency shall engage the City’s Police Department to use the verifiable photo identification document to check each individual who stays overnight in the permitted temporary shelter for outstanding in-state and out-of-state warrants and the individual’s potential registered sex offender status. The City must either offer the services of the City’s Police Department to provide these background check services at no cost to the managing agency or issue the managing agency a waiver of the background check requirements of this subsection for each permitted temporary shelter.

1) Outstanding Warrants. If any warrant check reveals an existing or outstanding warrant from any jurisdiction in the United States, the managing agency shall
immediately report the finding to the City’s Police Department for the apprehension of the individual.

2) Sex Offender Status. If the sex offender status check reveals that the individual is a registered sex offender, the individual shall not be admitted to the permitted temporary shelter.

E) Security. The managing agency shall ensure the permitted temporary shelter is secure and managed to strictly prohibit alcohol, prohibited drugs, weapons, fighting, abuse of any kind, littering, or other nuisances while located on the property. As necessary, the City’s Police Department shall be available to enforce state and local laws and ordinances. The managing agency may be billed for excessive use of City Police Department resources.

F) Entrance/Host Tent or Building; Entrance Attendee. The managing agency shall ensure there is an entrance/host tent or building at the permitted temporary shelter that is staffed twenty-four hours a day and seven days a week by at least one entrance attendee.

G) Managing Agency Contact. The managing agency contact shall serve on-call and be available for the entrance attendee twenty-four hours a day and seven days a week. The managing agency contact shall be available to provide help and assistance to the entrance attendee as may be necessary to ensure the permitted temporary shelter functions properly.

H) Enforcement. The entrance attendee staffing the entrance shall notify the managing agency contact as necessary in the enforcement of permitted temporary shelter rules and expectations, and/or the City’s Police Department as necessary to enforce local and state laws. The entrance attendee shall also serve as a point-of-contact for the City’s Police Department and will orient the department on how the managing agency accepts and processes potential residents. The names of the entrance attendee will be posted daily at the entrance/host tent or building. The City shall provide contact telephone numbers of nonemergency personnel which shall be posted at the entrance/host tent or building.

I) Visitors. Visitors to the permitted temporary shelter must meet the following procedures and requirements:

1) The requirements that apply to individuals staying overnight in the permitted temporary shelter pursuant to Subsection (C) of this Section shall also apply to all visitors to the permitted temporary shelter.

2) Visitors shall be accompanied by the resident that invited the visitor while at the permitted temporary shelter.
3) Visitors shall be allowed to visit the permitted temporary shelter only between the hours of 9:00 a.m. and 10:00 p.m. After 10:00 p.m., all visitors must be evicted from the permitted temporary shelter.

4) Visitors may not stay overnight unless they receive permission from the managing agency and complete all requirements necessary to become a resident, including the requirements of Subsections (C) and (D) of this Section.

5) For purposes of this Section, the following shall not be considered visitors to the permitted temporary shelter:

   (a) Volunteers, agents, members, or employees of the managing agency rendering aid, care, assistance, security, or comfort to residents of the permitted temporary shelter;

   (b) Law enforcement personnel, including members of the City’s Police Department;

   (c) Emergency fire/medical personnel;

   (d) Entrance attendees; and

   (e) The managing agency contact.

J) Age Restrictions. Residents of the permitted temporary shelter must be at least eighteen years of age. No minors shall be permitted entrance to the permitted temporary shelter unless they are a relative of a resident of the permitted temporary shelter. Minors related to a resident may be admitted to the permitted temporary shelter as visitors pursuant to Subsection (I) of this Section.

25.99.080 FIRE, SAFETY, AND HEALTH. Permitted temporary shelters shall meet the following fire, safety, and health requirements:

A) Fire Safety. The permitted temporary shelter shall conform to the following requirements:

   1) Open Fires. No open fires shall be permitted within approved shelters or outside an approved fire pit or appliance.

   2) Heating Appliances. No heating appliances shall be permitted within approved shelters.

   3) Cooking.
(a) The managing agency may allow for a common tent to provide community cooking facilities and services for the permitted temporary shelter. Common tents shall be approved by the managing agency and the Department.

(b) No cooking appliances shall be permitted within approved shelters.

4) Fire Extinguishers. The managing agency shall provide an adequate number and appropriate rating of fire extinguishers at the permitted temporary shelter as approved by the Department or the City’s Fire Department.

5) Emergency Access. The managing agency shall ensure that adequate access for fire and emergency medical personnel and apparatuses is provided for at the permitted temporary shelter, as determined by the City’s Fire Marshal.

6) Shelter Separation. The managing agency shall ensure that there is an adequate distance between approved shelters and other structures, as determined by the City’s Fire Marshal.

7) Electrical Service. Any electrical service provided to the permitted temporary shelter shall be in accordance with City code. Any electrical cords used outdoors shall be approved for outdoor use.

B) Health. The managing agency shall provide all necessary sanitary facilities, including temporary outhouses or portable toilets and facilities for hand-washing. All applicable health standards for providing and using such facilities shall be satisfied as required by the Department. Facilities and staff shall be available to provide minor medical treatment to temporary shelter residents; excessive use of the city emergency medical services for non-emergent care will result in billing to the temporary shelter sponsor. Non-emergent care is defined as care that does not require transportation to the emergency room.

C) Access for Inspections. The managing agency shall permit inspections by City staff to ensure compliance with the conditions of this permit. Inspections shall occur at reasonable times and may occur without prior notice.

D) Approved Shelters. Residents of the permitted temporary shelter may reside only in approved shelters at the permitted temporary shelter.

25.99.090 LIMITATIONS.

A) Duration. Permitted temporary shelters may be approved for a time period not to exceed one hundred eighty (180) days.
B) Limitation. No other permitted temporary shelter, regardless of the managing agency, may occupy the same site as a previous homeless temporary shelter, whether it was permitted or unpermitted, until City staff has ensured that all residents of the previous temporary shelter and any temporary structures, tents, trailers, etc. have been completely vacated from the site.

25.99.100 REVOCATION. Upon determination that there has been a violation of any approval criteria or a condition of the special permit application or that the managing agency has failed to take action against a resident who violates the terms and conditions of the special permit, code of conduct, or has committed violence, the Director may give written notice to the managing agency describing the alleged violation. Within fourteen days of the mailing of the notice of violation, the managing agency shall show cause why the permit shall not be revoked. At the end of the fourteen-day period, the Director shall sustain or revoke the permit. When a special permit for a permitted temporary shelter is revoked, the Director shall notify the managing agency holding the permit by certified mail of the revocation and the findings upon which the revocation is based. Appeals of decisions to revoke a temporary permitted temporary shelter permit shall be to Franklin County Superior Court.

25.99.110 PROOF OF INSURANCE. A religious organization or managing agency shall show the City proof of general liability insurance with respect to a permitted temporary shelter with minimum limits of one million dollars per occurrence. The City shall not require a religious organization or managing agency to obtain insurance pertaining to the City’s liability with respect to permitted temporary shelters or otherwise require the religious organization or managing agency to indemnify the City against such liability.

25.99.120 EMERGENCY SHELTERS. The provisions of this Chapter shall not apply to emergency or cold weather shelters as defined in PMC 25.12.156 and permitted under the provisions of PMC 25.86 where the screening of individuals to be temporarily housed in such shelters is conducted by a non-profit organization or a religious organization providing the emergency shelter.

25.99.130 PENALTY FOR VIOLATIONS.

A) Every person who violates PMC 25.99.030(B) has committed a code infraction and shall pay a penalty not to exceed five hundred dollars per incident.

B) Nothing in this Chapter shall be interpreted to prevent the applicability of Chapter 9.60 PMC (Public Nuisances) or Chapter 16.50 PMC (Unsafe and Unfit Buildings, Structures, and Premises) to homeless temporary shelters, either permitted or unpermitted.

25.99.140 SEVERABILITY. If any section, subsection, sentence, clause, phrase, or other portion of this chapter, or its application to any person, is for any reason declared invalid
in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

Section 2. This Ordinance shall take full force and effect five (5) days after its approval, passage, and publication as required by law.

PASSED by the City Council of the City of Pasco, Washington, and approved as provided by law this ____ day of ____________________, 2019.

Matt Watkins, Mayor

ATTEST:                        APPROVED AS TO FORM:

_________________________________  ______________________________
City Clerk                        Leland B. Kerr, City Attorney
Codes of Conduct for Homeless Encampments

If your agency has made the decision to allow a homeless encampment to remain on public land, even temporarily, but you are not entering into a formal lease agreement with a third party (e.g., a nonprofit agency) to manage the camp, consider working with the camp residents early on to establish camp codes of conduct. This allows your agency to exert some control over who is in the encampment, what activities take place, and how the site will be maintained. Setting these rules also helps establish clear expectations, both of your agency and of the camp residents, and clear consequences and enforcement procedures if those expectations are not met. Finally, developing codes of conduct with camp residents can also help to build trust and respect between parties, which is very important to ensuring smooth and productive future interactions.

Potential Elements to Consider in Developing a Homeless Encampment Code of Conduct

- Presence of drugs or alcohol
- Presence of weapons
- Presence of residents with criminal history (what kind of background is okay, what is not)
- Presence of children (particularly if sex offenders are allowed to live in the camp)
- Presence of pets (Remember to allow assistance animals)
- Loitering in surrounding areas
- Open flames
- Quiet hours
- Participation in site maintenance
  - Security shifts
  - Number of volunteer hours required per month
- Participation in camp governance
  - Attendance at weekly meetings
- Check-ins: Periodic meetings with social service providers or other city or agency representatives to demonstrate that they are searching for work or permanent shelter
- How new residents are admitted
  - Vote by existing camp residents
Homeless Shelter Code of Conduct Examples

**TC3 – Code of Conduct**—All Tent City 3 residents must adhere to the camp’s Code of Conduct:

1) No alcohol or drugs are permitted; sobriety is a must
2) No weapons are allowed
3) No men in women’s tents/no women in men’s tents
4) No loitering in the surrounding neighborhood
5) Quiet time imposed from 9 pm to 8 am
6) No open flames are permitted
7) No violence or crime is tolerated
8) Cooperation and participation in camp maintenance is expected

**Dignity Village— 5 Basic Rules:**

1) No violence to yourself or others.
2) No theft
3) No alcohol, illegal drugs, or drug paraphernalia on-site or within a 1-block radius
4) No constant disruptive behavior
5) Everyone must contribute to the operation and maintenance of the Village. Everyone must do a minimum of 10 hours “sweat” equity a week.
6) Everyone must pay the required insurance fee of $35.00 by the 5th day of every month.

**SHARE/WHEEL Tent City—Code of conduct**

We, the people of share/wheel, in order to keep a more harmonious community, ask that you observe the following code of conduct:

1) Share/wheel’s tent city is a drug and alcohol free Zone. Those caught drinking or using drugs will be Asked to leave. Sobriety is required.
2) No weapons are allowed. Knives over 3-1/2 inches must be checked in.
3) Any violence will not be tolerated. Please attempt to resolve any conflict in a creative and peaceful manner.
4) Degrading ethnic, racist, sexist or homophobic Remarks are not acceptable. No physical punishment, verbal abuse or intimidation Will be tolerated.
5) We are a community. Please respect the rights and privacy of your fellow citizens.
6) No men in the women’s tents. No women in the men’s tents. No open flames. No loitering or disturbing neighbors. No trespassing.
7) Attendance of at least one of the several community Meetings held through the week is required. Days and times will be posted so that you may work it into your schedule.
8) If these rules are not respected and enforced Tent City may be permanently closed.
PUBLIC HEARINGS:

C.  Code Amendment  Temporary Shelters (MF# CA 2018-001)

Chairperson Roach read the master file number and asked for comments from staff.

Rick White, Community & Economic Development Director, discussed the proposed code amendment for temporary shelters. This code amendment is the result of the State who recognizes religious organizations, if part of their core religious mission, have the ability to provide temporary homeless shelters on property they own or control. Currently in Pasco there isn’t a way for that to happen – there is no code in place that lays out a method or conditions to have a shelter. This should be in place before a religious organization applies for a temporary homeless shelter. With the help of the City Attorney’s Office, staff has been working on code to address temporary homeless shelters. Mr. White briefly explained what the ordinance would do and include.

Chairperson Roach asked how the ordinance would be implemented in regards to comprehensive background checks and the use of the City of Pasco Police Department for that service.

Mr. White said it’s already an established protocol. He added that the permits would be approved via conditional use permit process to work out any such problems that may arise.

Chairperson Roach asked how background checks could be done on someone who may not have an ID card, such as many homeless might not have.

Mr. White replied that the majority have some type of ID, but that would be addressed by the Police Department.

Commissioner Bowers said she noticed a minimum age requirement of 18 years old how that effects families.

Mr. White answered that has been an issue state-wide. The thinking is, when minors are allowed in temporary shelters, it brings rise to an entirely new level of scrutiny.

Commissioner Bowers addressed rules regarding drugs and alcohol but not cigarette smoking and asked if that would be handled or addressed.

Mr. White stated that staff didn’t think that was necessary.

Commissioner Myhrum thanked staff and stated that many of his previous concerns have been put aside.

Commissioner Bowers asked if there would be measures to address any problems or if the code would be revisited.
Mr. White replied that code amendments can always be made if issues arise, however, there is case law that in a way pre-empts the City in many ways.

Commission J. Campos reminded the Commission that these would be addressed individually by special use permits and conditions could be in place.

Chairperson Roach asked why a permit fee would not be required for the temporary shelter special use permit.

Mr. White said due to case law so that fees do not discourage applications.

There was a brief discussion on the length of the permit and continuum of care.

Commissioner Myhrum moved, seconded by Commissioner A. Campos, to close the hearing on the proposed code amendment and set February 21, 2019 as the date for deliberations and the development of a recommendation for the City Council. The motion passed unanimously.
OLD BUSINESS:

A. Code Amendment Temporary Shelters (MF# CA 2018-001)

Chairperson Myhrum read the master file number and asked for comments from staff.

Rick White, Community & Economic Development Director, discussed the proposed code amendment regarding temporary shelters. Staff had no further comments to add since the previous meeting.

Commissioner Bowers asked about homeless populations that were victims of domestic violence and if there was anything included in the proposed code that addressed the domestic violence population.

Mr. White replied that there was not.

Commissioner Roach stated that she appreciated the work done by staff who had addressed any concerns and comments discussed previously by the Commission. She asked for clarification regarding site criteria and the adequate number of parking spaces. She wanted to know how that number would be calculated.

Mr. White answered that most of the proposed ordinance is strategically vague because many matters, such as parking, would need to be done by a case by case determination. Many conditions would be based on the number of people as well as clarification from the managing entity.

Commissioner Roach added that there are many churches that operate preschools so those would likely need to be looked at on individually.

Commissioner Mendez noted that the proposed ordinance appears to be driven by the state RCW, but in that it specifically mentions religious organizations. He asked if it would apply to all non-profits or just religious organizations.

Mr. White said it would apply to all non-profits and would be able to apply for a special permit.

Commissioner Greenaway asked about adding in wording for non-profits to the ordinance.

Mr. White said it wasn't necessary.

Chairperson Myhrum stated that he appreciated the thorough process and the language is very thorough.

Commissioner Roach appreciated the code of conduct and the examples provided. She asked what the process would be for the City if the organization breaks their code of conduct and if it would be penalized.

Mr. White said the managing entity will have to manage their code of conduct and they will be the responsible
party. If there is a problem it will likely be handled much like Code Enforcement handles chronic nuisance properties.

Commissioner Roach moved, seconded by Commissioner Greenaway, the Planning Commission adopt the findings of fact as contained in the February 21, 2019 staff memo regarding temporary shelters. The motion passed unanimously.

Commissioner Roach moved, seconded by Commissioner Greenaway, the Planning Commission recommend the City Council adopt the proposed code amendments regarding temporary shelters as attached to the February 21, 2019 staff memo to the Planning Commission. The motion passed unanimously.