

PDS Director's Rule 23-01



Snohomish County

Planning and Development Services

Department: Snohomish County Planning and Development Services	Pages: 3	Supersedes: N/A		
	Adopted:	Effective:		
Subject and Title: Incidental Use	Code and Section Reference: SCC 30.911.030 and SCC 30.22.025			
	Type of Rule: Code Clarification and Implementation			
	Cite Basis: Chapter 30.82 SCC			
Approved: Mike McCrary, Director				
Date: 				

BACKGROUND:

Incidental use is defined in Snohomish County Code (SCC) 30.911.030 as,

“a use which occurs as a result of, or in connection with, a permitted use, conditional use, or administrative conditional use. The incidental use must be secondary or minor in nature, but associated with, the permitted use, conditional use, or administrative conditional use.”

SCC 30.22.025 authorizes the placement of incidental uses on a lot, stating,

“Uses which are incidental to a conforming permitted, conditional, or administrative conditional use may be placed on lots in conjunction with the permitted, conditional, or administrative conditional use.”

PURPOSE:

County code is silent on specific factors that PDS may consider in determining whether a use qualifies as an incidental use. The intent of this rule is to provide more specificity to the existing

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Incidental Use

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code sections that define and allow the placement of incidental uses on sites in unincorporated Snohomish County (SCC 30.911.030 and SCC 30.22.025). This rule provides additional detail on how PDS determines whether a use is “secondary or minor in nature” in order to qualify as an incidental use. This rule is necessary to ensure consistent and lawful application of the incidental use provisions.

RULE:

Incidental uses shall be determined by PDS utilizing the below list of non-exclusive factors unless more specific regulations or requirements exist in code. It is the responsibility of the applicant to provide any necessary documentation and information to PDS to demonstrate that the proposed incidental use complies with the applicable factors and code.

To be an incidental use, the applicant shall demonstrate compliance with all factors 1 through 4. Factors 5 through 8 may not all be applicable, as not all incidental uses will generate revenue for instance. Although the applicant shall demonstrate compliance with each that is applicable.

1. An incidental use must occur “as a result of, or in connection with” the primary use, and the primary use must be a conforming use. An incidental use does not need to be listed as allowed within the applicable use matrix.
2. An incidental use is separate from a “secondary use” that is allowed on a property per SCC 30.22.030.
3. An incidental use must be on the same [site](#) where the primary use is located.
4. An incidental use must be owned or operated by the owner or operator of the primary use.
5. The percentage of the [site](#) or [structure](#) dedicated to the incidental use must be less than 20% of the entire [site](#) or [structure](#) where the primary use occurs. If more than one incidental use is proposed or exists, the total percentage of all incidental uses combined must be less than 20%.
6. If materials are associated (e.g., produced, stored, or sold) with the incidental use, the volume of any material associated must be less than 20% of the volume associated with the primary use. If more than one incidental use is proposed or exists, the total volume of materials associated with all incidental uses combined must be less than 20%.
7. If employees are assigned to the incidental use, the number of employees assigned must be less than the number of employees assigned to the primary use of the property. If more than one incidental use is proposed or exists, the total number of employees assigned to all incidental uses combined must be less than the number of employees assigned to the primary use.
8. If the incidental use generates revenue, the revenue generated by the incidental use must be less than 20% of the revenue generated by the primary use. If more than one incidental use is proposed or exists, the total revenue of all incidental uses combined must be less than 20%.

Incidental uses shall be included in the permitting process for the primary use of the site. If the incidental use is proposed concurrently with the primary use of a site, the incidental use shall be included in the permit application for the primary use. If the incidental use is proposed on a site with an existing, permitted primary use, additional permits or approvals may be required as determined by the department.

FINDINGS:

Incidental uses are permitted on sites throughout the county, although it is not clear in code how incidental uses are determined. This rule is necessary to provide clarity and consistency with the application of SCC 30.911.030 and SCC 30.22.025. Pursuant to Chapter 30.82 SCC, the public participation process and notification requirements for this rule have been satisfied.

RULEMAKING PROCESS:

The following provides the procedural process for adoption of this rule:

Rulemaking Process		
Notice of Proposed Rule		
Filed with Council Clerk	March 8, 2023	
Posted at Counter	March 8, 2023	
Published	March 13, 2023	Herald
Comment Period (21 days)	April 3, 2023	
Notice of Rule Adoption		
Filed with Council Clerk		
Published		
Copies to Commenters		