



PLANNING AND ZONING COMMISSION

SPECIAL MEETING AGENDA May 15, 2024

Tom Baker Meeting Room	5:00 p.m.	City-County Office Building
<p>Any member of the public may attend this meeting. Comments may be provided on public hearing items either in person, at the appointed time, or emailed by 8 am on the meeting day to planning@bismarcknd.gov for distribution to the Commission and inclusion in minutes, unless anonymous.</p>	<p>The City of Bismarck does not discriminate in admission or access to its programs, activities, or services. To request accommodations for disabilities and/or language assistance, please contact the Title VI/ADA Coordinator at 701-355-1330.</p> <p style="text-align: right;">Agenda subject to change prior to meeting.</p>	<p style="text-align: right;">Page No.</p>
Item No.		

REGULAR AGENDA PUBLIC MEETINGS

1. **Home Occupations (DN)**.....2
 Zoning Ordinance Text Amendment | ZOTA2023-005 | *Public Meeting*
 Staff recommendation: Delay Action

OTHER BUSINESS

2. **Other**

ADJOURNMENT

3. **Adjourn.** The next regular meeting date is scheduled for May 22, 2024.



CITY OF BISMARCK

ORDINANCE NO. XXXX

<i>First Reading</i>	_____
<i>Second Reading</i>	_____
<i>Final Passage and Adoption</i>	_____
<i>Publication Date</i>	_____

AN ORDINANCE TO AMEND SECTIONS 14-02-03, 14-03-06, 14-03.1-07, 14-04-01, 14-04-01.1, 14-04-03, 14-04-06, 14-04-17, AND 14-05-05.1 OF THE CODE OF ORDINANCES OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO HOME OCCUPATIONS AND MODEL HOMES.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA:

Section 1. Amend. Section 14-02-03 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to Definitions, is hereby enacted to read as follows:

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~~Family Child Care: A detached single family dwelling, which also serves as the primary residence of the operator/provider, offering care, maintenance and supervision for hire or compensation, for less than twenty-four (24) hours per day, for no more than twelve (12) children under the age of twelve (12) years, including any children of the operator/provider on the premises that are under the age of twelve (12) years, and generally licensed by the North Dakota Department of Human Services as an early childhood program. Family child care is considered an accessory use to the principal use of the property as single family detached residential dwelling.~~

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Home Occupation: A business, business activity, profession, occupation, or trade activity occurring on a residential property that is conducted by at least one or more occupants of the residence, as an accessory use to the principal residential use of the dwelling, for economic gain other than

agriculture or rental for residential occupation. Improvements made to a residential property shall not be considered activity of a home occupation.

* * * * *

In-Home Child Care. A home occupation licensed by the State of North Dakota, or exempt from said licensing requirements, to provide early childhood services of care, supervision, education, or guidance of a child or children.

* * * * *

Model Home. A residential dwelling unit constructed and maintained as a display for sales and leasing of similar units in a subdivision or site.

Section 2. Amend. 14-03.1-07 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to Signs – Residential Zoning District Standards, is hereby enacted to read as follows:

* * * * *

7. Home Occupations. Signs associated with minor home occupations are not permitted. No more than one (1) non-illuminated commercial sign associated with a major home occupation may be placed on the property of no greater than two (2) square feet, plus one (1) square foot per acre in the lot, of sign area. Home occupations that exceed the requirements for a major home occupation shall follow any sign provisions included as a condition of a special use permit.

Section 3. Amend. 14-03-06 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to Incidental Uses, is hereby enacted to read as follows:

* * * * *

2. Home occupation:

a. ~~There is permitted in a dwelling any occupation customarily incidental to the principal use as a dwelling subject to the following limitations:~~

1. ~~A permit for the home occupation shall be obtained from the Zoning Administrator prior to the initiation of the use. Said permit shall be valid for two years. An administrative fee may be charged. Any appeal from~~

~~a decision relative to said permit shall be referred to the Board of Adjustment.~~

- ~~2. No more than one person other than a member of the immediate family occupying a dwelling is employed, except domestic help.~~
- ~~3. No stock in trade is stored outside, displayed or sold upon the premises.~~
- ~~4. No alteration of the principal building changes the character thereof as a dwelling.~~
- ~~5. No sign is used.~~
- ~~6. No more than twenty five percent of the area of one story of the building is devoted to the home occupation.~~
- ~~7. The address of the home occupation is not used in any advertising of the business or service.~~
- ~~8. No objectionable noise, odor, vibration or electrical interference is noticeable at the property line.~~
- ~~9. No traffic significantly in excess of present neighborhood levels is created.~~

~~b. The following are hereby declared to be home occupations as intended by this section:~~

- ~~1. Dressmaker, seamstress.~~
- ~~2. Artist. A person who is skilled in the profession of the fine arts of creative work or its principles; making or doing of things that display form, beauty and unusual perception and shall be limited to a person engaging in or teaching painting, sculpture, music, literature, dramatic art and ballet dancing. Group or student assemblies for the purpose of teaching or learning shall be limited to no more than four students at any one time.~~
- ~~3. Emergency treatment only of patients by physician or dentist.~~

~~4. Office uses provided said use does not generate traffic significantly in excess of present levels in the neighborhood.~~

~~5. Minister.~~

~~c. Rummage sales, yard sales or garage sales will be permitted provided that no one location hold more than two such sales in any calendar year.~~

~~Rummage, yard or garage sales may be of up to four consecutive days in duration but the two sales permitted under this section may not exceed a total of six days.~~

2. Home Occupations. A home occupation is permitted as an accessory use on any residential property in any zoning district, subject to the following provisions:

a. Permitting Process. Home occupations are further divided into major and minor types based on standards contained in this section and subject to a separate approval process for each type:

i. Minor home occupations are permitted by right. A property owner may choose to request a letter to verify compliance with provisions of this section, and the Zoning Administrator will issue a letter of compliance based on information provided by the property owner and in accordance with a process set by the Zoning Administrator.

ii. Permitting for major home occupations shall vary by zoning district and size of lot:

1. In the RR – Residential, RR5 – Residential, or A – Agricultural zoning districts, major home occupations are permitted by right.

2. In all other zoning districts, major home occupations may be permitted by a special use permit, according to procedures set in Section 14-03-08 of this title.

iii. Home occupations that do not meet either major or minor standards may be permitted only in RR – Residential, RR5 – Residential, or A – Agricultural

zoning districts by a special use permit, according to procedures set in Section 14-03-08 of this Title upon a finding that:

1. The issuance of the permit would conform to the intent of that zoning district and the goals and objectives of the Comprehensive Plan
 2. Requirements of the International Building Code (IBC) would be met, as applicable.
 3. The proposed home occupation remains clearly subordinate to the principal residential use.
- iv. More than one (1) home occupation may be permitted on any residential property. In such cases, all standards and permits of this section apply to the cumulative total of all home occupations on the property.
- b. Minor home occupations. A minor home occupation is any home occupation that meets all of the following standards:
- i. The home occupation is conducted only by one (1) or more residential occupants of the dwelling with no outside employees.
 - ii. No more than twenty-five percent (25%) of the floor area of the principal structure and up to one hundred percent (100%) of one (1) accessory structure is utilized by the home occupation, including storage of associated goods.
 - iii. There exists no outward visual evidence to indicate the presence of the home occupation to an uninformed person, such as alterations of the dwelling from a customary residential appearance, overnight storage of products or materials outside, shipping containers, or commercial signs.
 - iv. There exists no noise, odor, vibration, or electrical interference associated with the home occupation that is noticeable at the property line.
 - v. Visits from customers, clients, or patients are by appointment only and limited to no more than one (1)

party, or up to four (4) students for group lessons, at any time. Notwithstanding, multiple said parties may be present on the property during not more than four (4) events per year, with each event not to exceed four (4) days and no events occurring consecutively. At no time may a home occupation generate traffic significantly greater than that of a conventional residential use.

- vi. Visits from customers, clients, patients, or deliveries occur only during the hours of 7 AM to 11 PM.
 - vii. Not more than two (2) vehicles and/or trailers, no greater than twenty (20) feet in deck length, associated with the home occupation may park or stand on the property or street, if permitted, at any time, and any on-street parking shall meet requirements of Chapter 12-13-19 of the City Code of Ordinances or any requirements of Burleigh County, as applicable.
 - viii. No vehicles associated with the home occupation which require a Commercial Driver License (CDL) to operate in North Dakota may park overnight on the property or the street, with the exception of one (1) semi-truck without a trailer and parked on the property.
 - ix. There is no storage of any flammable, toxic, explosive, or otherwise hazardous materials to a greater extent than stored in a typical residential household, and no hazardous material is discharged into any sewer, storm drain, or the ground.
 - x. The use is not an adult entertainment center, adult bookstore, or registered in North Dakota as a compassion center to dispense or produce medical marijuana.
- c. In-Home Child Care. Notwithstanding provisions of Section 14-03-06(2)b(i), Section 14-03-06(2)b(ii), and Section 14-03-06(2)b(v), in-home child care may be permitted as a minor home occupation, subject to the following standards:
- i. In any single-family or two-family dwelling, the in-home child care is licensed by the State of North Dakota as a Family Child Care or a Group Child Care for no more than twelve (12) children under the age of twelve (12)

- years, including any children of the operator/provider on the premises that are under the age of twelve (12) years.
- ii. In any dwelling unit, the in-home child care is classified by the State of North Dakota as a Self-Declaration Provider for no more than five (5) children under the age of twelve (12) years, including any children of the operator/provider on the premises that are under the age of twelve (12) years.
- d. Major home occupations. A major home occupation is any home occupation that meets all of the following standards:
- i. The home occupation does not meet all standards required of a minor home occupation.
 - ii. The home occupation is conducted by one (1) or more residential occupant of the dwelling and no more than one (1) additional employee that does not reside on-premises.
 - iii. No more than fifty percent (50%) of the floor area of the principal structure, one hundred percent (100%) of accessory structures, and one (1) contiguous outdoor area of up to 3.5% of the total lot area or 10,000 square feet, whichever is less, is utilized by the home occupation, including storage of associated goods, vehicles, equipment, and trailers.
 - iv. The principal residential dwelling is not altered from a customary residential appearance, and there are no shipping containers permitted on the property.
 - v. Outdoor and overnight storage of products or materials associated with the home occupation may not be in a front yard and must be screened by fencing, buildings, or vegetation such that materials are not clearly visible from a public right-of-way. Trailers may be loaded with items.
 - vi. No more than one (1) non-illuminated commercial sign is placed on the property of no greater than two (2) square feet, plus one (1) square foot per acre in the lot, of sign area, subject to all requirements of Chapter 14-03-01.

- vii. Noise ordinance requirements contained in Chapter 08-10 of the Code of Ordinance are met at all times, and there exists no objectionable odor, vibration, or electrical interference associated with the home occupation and above typical residential levels that is noticeable at the property line.
- viii. Visits from customers, clients, patients, employees, or deliveries do not create an undue burden on traffic safety and congestion or on-street parking availability in the neighborhood. At no time may a home occupation generate traffic significantly greater than that of a conventional residential use.
- ix. Visits from customers, clients, patients, employees, or deliveries occur only during the hours of 7 AM to 11 PM.
- x. Any vehicles, including trailers and equipment, associated with the home occupation must be parked in an orderly manner on a paved or gravel surface suitable for parking, and any on-street parking shall meet requirements of Chapter 12-13-19 of the City Code of Ordinances or any requirements of Burleigh County, as applicable.
- xi. No more than one (1) vehicle associated with the home occupation which requires a Commercial Driver License (CDL) to operate in North Dakota may park on the property at any time. At no time may said vehicle exceed the load restrictions in place for any time of the year on the adjoining street or park on the street.
- xii. There is no storage of any flammable, toxic, explosive, or otherwise hazardous materials to a greater extent than stored in a typical residential household, and no hazardous material is discharged into any sewer, storm drain, or the ground.
- xiii. The use is not an adult entertainment center, adult bookstore, or registered in North Dakota as a compassion center to dispense or produce medical marijuana.

3. Model Homes. A model home is permitted on any residential property in any zoning district, subject to the following provisions:
 - a. Model homes are subject to all sign requirements for Non-Residential Uses in a residential zoning district.
 - b. Model homes shall be converted to residential use or removed upon complete development of the subdivision or site.
 - c. Model homes may contain ancillary office or indoor storage use provided the principal use of the property remains sales or leasing of homes in the subdivision or site and all building and fire codes of the International Building Code (IBC) are met.

Section 4. Amend. 14-04-01 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to the RR – Rural Residential zoning district, is hereby enacted to read as follows:

1. General description. The RR residential district is established as a district in which the principal use of the land shall be for low density, large lot single-family dwellings, limited agriculture, and limited equine husbandry. For the RR residential district, in promoting the general purposes of this title, the specific intent of this section is:

* * * * *

- a. ~~To prohibit general commercial and industrial uses of the land and to prohibit any use which would substantially interfere with the development or the continuation of single family dwellings and limited agricultural uses.~~ To protect the quiet enjoyment of residential property and discourage all uses or activities that interfere with or detract from these principal uses of this zoning district.

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2. Uses Permitted. The following uses are permitted.

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- a. ~~Family child care.~~

Section 5. Amend. 14-04-01.1 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to the RR5 – Rural Residential zoning district, is hereby enacted to read as follows:

1. General description. The RR5 residential district is established as a district in which the principal use of the land shall be for low density, large lot single-family dwellings, limited agriculture, and limited equine husbandry. For the RR5 residential district, in promoting the general purposes of this title, the specific intent of this section is:

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- a. ~~To prohibit general commercial and industrial uses of the land and to prohibit any use which would substantially interfere with the development or the continuation of single family dwellings and limited agricultural uses. To protect the quiet enjoyment of residential property and discourage all uses or activities that interfere with or detract from these principal uses of this zoning district.~~

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2. Uses Permitted. The following uses are permitted.

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- a. ~~Family child care.~~

Section 6. Amend. 14-04-03 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to the R5 – Residential zoning district, is hereby enacted to read as follows:

1. General description. The R5 residential district is established as a district in which the principal use of land is for single-family dwellings. For the R5 residential district, in promoting the general purposes of this title, the specific intent of this section is:

* * * * *

- a. ~~To prohibit commercial and industrial use of the land, and to prohibit any other use which would substantially interfere with development or continuation of single family dwellings in the district. To protect the quiet enjoyment of residential property and discourage all uses or activities that interfere with or detract from these principal uses of this zoning district.~~

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2. Uses Permitted. The following uses are permitted.

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~~a. Family child care.~~

Section 7. Amend. 14-04-06 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to the R10 – Residential zoning district, is hereby enacted to read as follows:

3. General description. The R10 residential district is established as a district in which the principal use of land is for single-family and two-family dwellings. For the R10 residential district, in promoting the general purposes of this article, the specific intent of this section is:

* * * * *

~~a. To prohibit commercial and industrial use of the land and to prohibit any other use which would substantially interfere with development or continuation of single-family and two-family dwellings in the district. To protect the quiet enjoyment of residential property and discourage all uses or activities that interfere with or detract from these principal uses of this zoning district.~~

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2. Uses Permitted. The following uses are permitted.

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~~a. Family child care, when located in a detached single-family dwelling.~~

Section 8. Amend. 14-04-17 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to the A – Agricultural zoning district, is hereby enacted to read as follows:

1. General description. The agricultural district is established as a district in which the predominant use of land is for general agricultural uses. For an A agricultural district, in promoting the general purposes of this ordinance, the specific intent of this section is:

* * * * *

a. To ~~prohibit~~ discourage scattered commercial and industrial use of land, and to prohibit any other use which would interfere

with an integrated and efficient development of the land for more intensive urban uses as the city expands.

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2. Uses Permitted. The following uses are permitted.

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~~a. Family child care.~~

Section 9. Amend. 14-05-05.1 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to accumulation of certain items, is hereby enacted to read as follows:

1. No person shall cause, permit, keep, accumulate or allow the accumulation of any commercial equipment, junk, refuse, surplus, scrap, salvage or other similar items outside of a closed building in any residentially-zoned district, except for storage associated with certain home occupations as permitted under Section 14-03-06 of the City Code of Ordinances. The items for which accumulations are prohibited under this section may include one or more of the following but are not limited to hazardous wastes, scrap metals, used or scrap lumber, household appliances, machinery, farm machinery, commercial equipment, new or used building materials, construction or demolition waste or salvage, abandoned or unlicensed vehicle(s), automotive or machinery parts, tires, used oil or solvents, garbage or rubbish of any kind, waste paper, used furniture or other household goods, barrels, rags, boxes, cardboard, or other similar items. The fact that an item or items has value or is operational shall not excuse conduct prohibited by this section. For the purposes of this section, residential districts shall include RR, RR5, R5, RMH, R10, RM, RT, PUD, and HM. Prior to signing a complaint under this section, the Health Officer or his or her agent must serve the property owner or tenant with a notice and order pursuant to Section 14-05-03.1.

Section 10. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent remaining portions of this ordinance.

Section 11. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 12. Effective Date. This ordinance shall take effect after final passage, adoption and publication.

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