

## **SECTION 541 - ZONING: OVERLAY DISTRICTS**

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**SECTION 541 - ZONING: OVERLAY DISTRICTS**  
**(ADDED, BILL NO. 2009-5)**

**541.01. Airport Impact Overlay Districts; Applicability.** Subdivision 1. Subsections 541.05 through 541.15 relate to Airport Impact Overlay District I (Safety) “AIO-1.”

**Subd. 2.** Subsections 541.75 and 541.77 relate to Airport Impact Overlay District II (Noise) “AIO-II.”

**541.05. Definitions.** The following words and terms when used in this section shall have the following meanings unless the context clearly indicates otherwise:

- a) “2004 MSP Zoning Ordinance” – The restated and amended Minneapolis – St. Paul International Airport (Wold – Chamberlain Field) Zoning Ordinance adopted by the Wold – Chamberlain Field Joint Airport Zoning Board on April 29, 2004 which became effective on the Effective Date, the terms of which are incorporated herein by reference.
- b) “Above-ground fuel tank” - A container, vessel or other enclosure designed to contain or dispense fuel that is located above the ground surface, that is not contained within a building or structure and that is not part of or connected to a boat, motor vehicle or rail car.
- c) “Airport hazard” – Any structure, tree or use of land that obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the Airport; and any use of land that is hazardous to persons or property because of its proximity to the Airport.
- d) “Airspace surfaces” – The surfaces established in Section IV.A of the 2004 MSP Zoning Ordinance.
- e) “Airspace zones” – The land use zones established in Section IV.A of the 2004 MSP Zoning Ordinance.
- f) “Board of adjustment” – The body established in Section XII.A of the 2004 MSP Zoning Ordinance.
- g) “Consent Decree” – The Consent Decree signed on October 17, 2007 by Judge Stephen C. Aldrich of the Minnesota District Court 4<sup>th</sup> Judicial District in the action entitled City of Minneapolis et al v. Metropolitan Airports Commission et al., a true and correct copy of which is on file in the office of the Community Development Director of the City of Richfield.

- h) “dBA” - a unit of sound pressure level weighted by use of the A metering characteristics and weighting as specified in the American National Standards Institute specifications for sound level meters (ANSI S1.4-1983), which is hereby incorporated by reference. “dBA” is also referred to as an A-weighted decibel.
- i) “Day-Night Average Sound Level (DNL)”—The day-night average sound level is a measure of the average noise environment over a 24-hour day. It is the 24-hour energy-averaged A-weighted sound level with a 10 decibel penalty applied to nighttime levels which occur between 10:00 p.m. to 7:00 a.m.
- j) “Established residential neighborhood in a built-up urban area” – The areas identified in the 2004 MSP Zoning Ordinance and listed in Exhibit B – Legal Description of Established Residential Neighborhoods and shown on Exhibit C – Map of Established Residential Neighborhoods in Built-up Urban Areas and pursuant to the criteria noted in the 2004 MSP Zoning Ordinance.
- k) “Low density residential structure” – A single-family or two-family home.
- l) “Low density residential lot” – A single lot located in an area which is zoned for single-family or two-family residences and in which the predominant land use is such type of residences.
- m) “Noise Contours” – Lines or “footprints” of noise level usually drawn around a noise source (such as an airport, industrial plant or highway). The lines are generally drawn in 5-decibel increments so that they resemble elevation contours found in topographic maps.
- n) “Safety zones” – The land use zones established in Section V.A of the 2004 MSP Zoning Ordinance.
- o) “Sound attenuation” – The reduction in sound level which occurs between the source and receiver by means of construction methods and materials.
- p) “Sound Transmission Class (STC)” – A single-number rating for describing the degree of sound transmission loss specified for a wall, window, partition or other building element. The higher the STC, the more attenuation the building element will afford as defined by the Metropolitan Council’s Builders Guide.

**541.07. Airport Impact Overlay District I (Safety); district boundaries.** The Airport Impact Overlay District I (Safety) shall apply to all land within the City of Richfield designated as Safety Zone B and Safety Zone C in the 2004 MSP Zoning Ordinance.

**541.09. General restrictions.** All permitted, accessory, conditional and interim uses allowed in the underlying zoning district are allowed in the Airport Impact Overlay District with the exception of the following prohibited uses.

- a) Within the portion of the AIO-I District designated as Safety Zone B as contained in Section V Land Use Safety Zoning of the 2004 MSP Zoning Ordinance and shown on MSP Zoning Map Safety Zones – Plate SZ-20, the following uses are prohibited unless a variance permitting the use is granted by the Board of Adjustment established by the 2004 MSP Zoning Ordinance:
  - (1) Amphitheaters;
  - (2) Campgrounds;
  - (3) Churches;
  - (4) Fuel storage tank farms;
  - (5) Above-ground fuel tanks;
  - (6) Gasoline stations;
  - (7) Hospitals;
  - (8) Nursing homes;
  - (9) Residential uses (including low, medium and high density residential uses);
  - (10) Schools;
  - (11) Stadiums;
  - (12) Theaters;
  - (13) Trailer courts;
  - (14) Ponds or other uses that might attract waterfowl or other birds such as putrescible waste disposal operations, wastewater treatment facilities and associated settling ponds, and dredge spoil containment areas; provided, however, the prohibition on ponds or other uses that might attract waterfowl or other birds shall not apply to acres below an elevation of eight hundred (800) feet above mean sea level along the Bluff of the Minnesota River.
  
- b) Within the portion of the AIO-I District designated as Safety Zone C as contained in Section V Land Use Safety Zoning of the 2004 MSP Zoning Ordinance and shown on MSP Zoning Map Safety Zones – Plates SZ-13, SZ-14, SZ-15 and SZ-20 no land use shall violate the height restrictions imposed by the 2004 MSP Zoning Ordinance and described in Subsection 512.13 Subd. 4 of this code.

**541.11. Height.** Except as necessary and incidental to Airport operations, no new structure shall be constructed or established; no existing structure shall be altered, changed, rebuilt, repaired or replaced; and no tree shall be allowed to grow or be altered, repaired, replaced or replanted in any way so as to project above any Airspace Surface as shown on MSP Zoning Map Airspace Zones – Plates A-13, A-14, A-15, A-19 and A-20.

**541.13. Exemptions.** The following regulations shall apply to an “established residential neighborhood in a built-up area” as defined in 2004 MSP Zoning Ordinance:

- a) A low density residential structure or isolated low density residential lot as defined in 2004 MSP Zoning Ordinance which existed in an “established residential neighborhood in a built-up area” on or before January 1, 1978, and all other land uses which existed in an established residential neighborhood in a built-up area on or before June 30, 1979, shall be subject to the height restrictions of Subdivision 4, but shall not be subject to the Safety Zone B restrictions of Subdivision 3. In addition, such structure, lot or use shall be deemed a conforming use that shall not be prohibited under the 2004 MSP Zoning Ordinance.
- b) In Safety Zone B in an established residential neighborhood in a built-up urban area or in an area immediately adjacent to such a neighborhood, existing low, medium and high density residential uses may be improved and expanded, and new low, medium and high density residential uses may be developed, all subject to the height restrictions of Subdivision 4 and all other provisions of this code.

**541.15. 2004 MSP Zoning Ordinance use variances.** Within the AIO-I District, variance to allow uses listed as prohibited in the AIO-I District that are granted by the Board of Adjustment as contained in the 2004 MSP Zoning Ordinance may only be established in the City of Richfield to the extent that they comply with all of provisions of this code. A use not allowed in the underlying zoning district shall not be established under any circumstances.

**541.17. Airport Impact Overlay District II (Noise): findings; district boundaries.** Subdivision 1. Findings. The City finds that noise generated by aircraft over flights has adverse impacts on residential uses of property, especially on properties located within noise contours having a DNL decibel level of 60 or higher. The adverse impacts of aircraft noise can be reduced in new construction through the use of construction materials that have a sound transmission classification of 40 or higher. In the case of rehabilitation, remodeling or additions to existing residential dwelling units, the benefits of using construction materials with an STC rating of 40 or higher will depend upon the particulars of the project and in the city’s determination should be left to the individual property owner to determine.

**Subd. 2.** District boundaries. The provisions of subsections 541.75 and 541.77 shall apply to all lots or parcels of record within the City of Richfield having an underlying zoning designation of Single Family Residential (R), Low Density Single Family Residential (R-1), Two Family Residential (MR-1), Multi-Family Residential (MR-2), and High Density Multi-Family Residential (MR-3) and located within or touched by the 2007 60-64 DNL contours as shown at Appendix A of the Consent Decree, which contour map is incorporated into this ordinance by reference.

**541.19. Noise Attenuation.** It is in the best interest of the City and of current and future residents that the integrity of all residential structures which have received a 5dB or; other sound insulation package from the Metropolitan Airports Commission be maintained subject to the following:

**Subd. 2.** Noise Attenuation Required – Any new single-family or multi-family construction on property located within the 60+ DNL Contours, or any infill construction or rebuilding of residential structures after tearing down the original structure which takes place within blocks or between structures that have received noise attenuation pursuant to the Consent Decree or pursuant to previous noise mitigation programs of the Metropolitan Airports Commission, shall utilize building materials with a sound transmission class (STC) rating of at least forty (40) and shall include installation of central air conditioning and mechanical ventilation throughout the habitable areas of the structure.

**Subd. 3.** Requirements within the 2007 60-62 Contours. All construction of new single family homes located in blocks or between structures that have received noise attenuation pursuant to the Consent Decree that are in the 60 to 62 DNL contours as defined in the Consent Decree must include installation of central air conditioning and mechanical ventilation throughout the habitable portion of the structure.

**Subd. 4.** Requirement for Multi-Family Homes in the 2007 60-64 Contour. All construction of new multiple family homes in blocks that have received noise attenuation pursuant to the Consent Decree or which are between structures which have received noise attenuation pursuant to the Consent Decree or pursuant to previous noise mitigation programs of the Metropolitan Airports Commission must include installation of central air conditioning or mechanical ventilation throughout the habitable portions of the structure.

**Subd. 5.** Noise Attenuation Recommended but not required. For construction of a habitable addition to a dwelling unit that expands the habitable area of a dwelling unit which had previously received 5dB sound insulation package from the Metropolitan Airports Commission pursuant to the Consent Decree or pursuant to previous noise mitigation program of the Metropolitan Airports Commission, the property owner is encouraged to consider (i) the inclusion of central air conditioning and mechanical ventilation for the expanded area and (ii) utilization of materials with a sound transmission class (STC) rating of at least forty (40) in order to achieve similar noise attenuation in the expansion of the structure as existed in the principal structure prior to the expansion.

**541.21. Penn Avenue Corridor Overlay District.** Subdivision 1. Purpose and intent. The Penn Avenue Corridor District provides for a balanced mix of commercial, office and residential uses that together create a cohesive and pedestrian-friendly area.

Subd. 2. Creation of district and applicability. The Penn Avenue Corridor Overlay (PAC) District shall apply to properties designated within Appendix 1 of this code.

Subd. 3. Applicable regulations. The regulations of the underlying Mixed-Use Community (MU-C) District shall apply with the following additions and exceptions:

- a) Uses. All permitted, accessory, conditional and interim uses allowed in the MU-C District are allowed in the PAC District with the following additions, qualifications and/or exceptions:

**Table 1. Uses in the Penn Avenue Corridor Overlay District**

The following abbreviations are used within the use table:

- P= permitted use                      A= accessory use  
 C= conditionally permitted        N= not permitted

<b>Use</b>	<b>PAC</b>
Regional retail services	P
Auto mechanical or body repair shops	N
Auto detailing	N
Dwelling, townhouse (min. density 6 du/acre)	P
Dwelling, multi-family (min. density 6 du/acre)	P
Live – work units (min. density 6 du/acre)	P
Transit facilities	P

- b) Uses not listed. Any land use not listed as Permitted, Accessory or Conditional in this subsection or other referenced subsections is prohibited in the Penn Avenue Corridor Overlay District unless the use is found to be substantially similar to a use listed, as determined by the City in accordance with Subsection 509.23 of this Code.
- c) Conditional uses. All conditions applicable in the MU-C District ,as found in Subsection 537.05 of this code, apply in the PAC District with the following additions, qualifications and/or exceptions:
  - (i) Restaurant Class III or Drive-Up Window Teller Service. In addition to the rules governing drive-up window or teller service in the underlying MU-C District, a minimum distance of 150 feet must be maintained between such facilities in the PAC District (as measured from property line to property line).
- d) Bulk and dimensional standards. All bulk and dimensional standards applicable in the MU-C District, as found in Subsection 537.07 of this code, shall apply in the PAC District with the following additions, qualifications and/or exceptions:
  - (i) The minimum two-story building requirement prescribed in Table 2 of Subsection 537.07 does not apply within the PAC District.
  - (ii) The maximum number of building stories in the PAC shall be 8 stories.
  - (iii) A mix of uses, as prescribed by Subsection 537.07 Subd, 2(b), is not required within the PAC District.

- e) Other Performance Standards: All additional performance standards applicable in the MU-C District, as found in Subsection 537.11 of this code, shall apply in the PAC District with the following additions, qualifications and/or exceptions:
  - (i) The above ground parking ramps orientation requirement described by Subsection 537.11, Subd. 6(d) does not apply in the PAC District.
  - (ii) The open space requirement described by Subsection 537.11, Subd. 8 does not apply in the PAC District.