

CRYSTAL AIRPORT JOINT AIRPORT ZONING BOARD

**In the Matter of Adopting a
Crystal Airport
Zoning Ordinance**

**FINAL STATEMENT OF LEGAL
AUTHORITY, FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER**

The Crystal Airport Joint Airport Zoning Board (the “**Crystal JAZB**”) convened to consider adoption of a Crystal Airport Zoning Ordinance (“**Airport Zoning Ordinance**”), which will regulate the use of property and the height of structures and objects of natural growth in the vicinity of the Crystal Airport (“**Airport**”).

The Crystal JAZB, having reviewed and considered the public record before it, intends to adopt the Airport Zoning Ordinance. In support of its action, the Crystal JAZB hereby summarizes its legal authority; and finds, concludes and orders as follows.

I. LEGAL AUTHORITY

A. State Law: Authority and Purpose of Airport Zoning

1. The general authority to zone around the Airport is established in Minnesota Statutes, sections 360.061 – 360.074 (“**Airport Zoning Statute**”).
2. In the Airport Zoning Statute, the Minnesota Legislature (“**Legislature**”) found that airport hazards endanger lives and property of users of an airport and of occupants of land in its vicinity and may reduce the size of the area available for the landing, taking-off, and maneuvering of aircraft, thereby impairing the utility of an airport. *See* Minn. Stat. § 360.062.
3. The Legislature also found that the social and financial costs of disrupting existing land uses around airports often outweigh the benefits of a reduction in airport hazards. *See* Minn. Stat. § 360.062.
4. The Legislature then declared that the creation of airport hazards is a public nuisance and an injury to the community served by the airport, and that the creation of airport hazards should be prevented. *See* Minn. Stat. § 360.062.
5. The Legislature also declared that the elimination or removal of existing land uses is not in the public interest and should be avoided whenever possible consistent with reasonable standards of safety. *See* Minn. Stat. § 360.062.
6. The Legislature allows airport zoning regulations to regulate in airport hazard areas: (1) land use; (2) height restrictions; (3) the location, size, and use of buildings; and (4) the density of population. *See* Minn. Stat. § 360.063.

B. State Law: Joint Airport Zoning Boards

7. Joint airport zoning boards (“**JAZB**”) are authorized where “an airport is owned or controlled by a municipality and an airport hazard area appertaining to the airport is located within the territorial limits of another county or municipality” Minn. Stat. § 360.063, subd. 3.
8. JAZBs have the authority to adopt, administer, and enforce airport zoning regulations. *See* Minn. Stat. § 360.063, subd. 3.
9. The Metropolitan Airports Commission (“**MAC**”) is recognized as an “owning or controlling municipality” for purposes of the Airport Zoning Statute, and is required to request creation of a JAZB for the Airport. *See* Minn. Stat. § 360.063, subd. 3.
10. If an invited county or municipality fails to join in creating a JAZB, MAC or a JAZB created without participation by the entity that failed to join, may itself adopt, administer, and enforce airport zoning regulations. *See* Minn. Stat. § 360.063, subd. 3.
11. If a JAZB fails to adopt airport zoning regulations in accordance with the Airport Zoning Statute, the Minnesota Commissioner of Transportation (“**Commissioner**”) may adopt airport zoning regulations for the airport. *See* Minn. Stat. § 360.063, subd. 6.

C. State Law: Requirements and Considerations for Airport Zoning Regulations

12. A JAZB may base airport zoning regulations on standards promulgated by the Commissioner, or may develop custom airport zoning regulations after providing notice to the Commissioner. *See* Minn. Stat. § 360.0655, subd. 1.
13. When developing custom airport zoning regulations, a JAZB must include in the record a detailed analysis explaining how the proposed regulations address the factors set forth in Minn. Stat. § 360.0656, subd. 1(c) to ensure a reasonable level of safety.
14. Airport zoning regulations must be reasonable, and none can impose a requirement or restriction that is not reasonably necessary to effectuate the purposes of the Airport Zoning Statute. *See* Minn. Stat. § 360.066, subd. 1.
15. The JAZB’s zoning regulations cannot require that any structure or tree that does not conform to the regulations when adopted be removed, lowered, altered, or interfered with, except as provided in Minn. Stat § 360.067. *See* Minn. Stat § 360.066, subd. 2.

D. State Law: Process for Adopting Airport Zoning Regulations

16. The JAZB must hold a public hearing on its proposed zoning regulations. Notice of the public hearing must be provided as described in the Airport Zoning Statute. *See* Minn. Stat. § 360.065, subd. 1.
17. After the public hearing, the JAZB must submit its proposed zoning regulations to the Commissioner for review. For custom airport zoning regulations, the Commissioner must determine whether the proposed custom regulations and supporting record (1)

- evaluate the criteria in Minn. Stat. § 360.0656, subd. 1, and (2) provide a reasonable level of safety. *See* Minn. Stat. § 360.0656, subd. 2.
18. The Commissioner must examine the proposed regulations within 90 days of receipt and report to the JAZB the Commissioner's approval or objection. The Commissioner may request additional information from the JAZB within the 90-day review period. *See* Minn. Stat. § 360.0656, subd. 2.
 19. The JAZB cannot adopt the proposed custom airport zoning regulations until they are approved by the Commissioner. *See* Minn. Stat. § 360.0656, subd. 2.
 20. If changes are made to the proposed zoning regulations, after the initial public hearing, that alter the regulations placed on a parcel of land, the JAZB must hold a second public hearing before final adoption of the proposed zoning regulations. *See* Minn. Stat. § 360.065, subd. 1.

E. State Law: Incorporation into Local Zoning

21. Airport zoning regulations adopted by a JAZB must be incorporated, administered, and enforced in connection with local comprehensive zoning ordinances applicable to the same area. *See* Minn. Stat. § 360.064.

F. Federal Standards

22. The Federal Aviation Administration (“**FAA**”) has established airspace safety standards in Federal Aviation Regulation Part 77.
23. FAA has also established standards for the establishment of runway protection zones (“**FAA RPZ**”). *See* FAA Advisory Circular 150/5300-13B.
24. There are no federal airport safety land use zoning standards beyond the FAA RPZs.

II. FINDINGS OF FACT

A. Crystal JAZB

25. Pursuant to Minn. Stat. §360.063, subd. 3, MAC requested formation of the Crystal JAZB in July of 2021.
26. The Crystal JAZB consists of two members each from the City of Crystal, the City of New Hope, the City of Brooklyn Park, the City of Robbinsdale, the City of Minneapolis, as well as two members from MAC. In addition, a chair was elected and appointed by the Crystal JAZB members.
27. The Crystal JAZB conducted its first meeting on October 12, 2021, and met eight times between October 2021 and April 2023 (including once for the public hearing). All meetings of the Crystal JAZB were open to the public.
28. At its February 11, 2022, meeting, the JAZB considered the Airport Zoning Statute, the standards promulgated by the Commissioner, the option to develop custom airport zoning regulations, and features of the Crystal Airport and vicinity land uses. At this meeting, the JAZB elected to pursue custom zoning for the Crystal Airport.

29. On March 16, 2022, the JAZB sent notice to the Commissioner that the JAZB elected to establish and adopt custom airport zoning regulations.
30. At its July 13, 2022 and October 12, 2022, meetings, the JAZB considered the custom zoning factors set forth in the Airport Zoning Statute as they apply to the Crystal Airport, including a detailed safety/risk analysis. The JAZB also considered information regarding airspace zoning and land use zoning, including an analysis of accident probabilities in areas surrounding the Airport and the costs and burdens of imposing land use restrictions. At this meeting, the JAZB directed MAC to create a formal proposal for a custom airport zoning ordinance based on the information presented at the meeting.
31. At its November 16, 2022 and December 14, 2022 meetings, the JAZB considered drafts of an Airport Zoning Ordinance establishing proposed height and land use regulations (including appropriate airspace and land use safety zones), providing for nonconforming uses, zoning permits, and variances, and addressing administration, enforcement, and appeals. The JAZB considered whether the proposed ordinance provided a reasonable level of safety. The JAZB addressed several administrative concerns including the interplay between city enforcement actions under the Airport Zoning Ordinance and the FAA's 7460 process. At the December 14, 2022 meeting, the JAZB decided to advance the draft Airport Zoning Ordinance to a public hearing as required by Minnesota Statutes, section 360.065, subd. 1.

B. Public Hearing

32. Two public comment periods were held between February 7, 2023, through March 8, 2023, and April 4, 2023, through May 3, 2023. The first public comment period was associated with a Public Hearing scheduled for February 23, 2023. This meeting was cancelled due to weather. The second public comment period was associated with a rescheduled Public Hearing held on April 19, 2023.
33. Notice of the public hearing was provided as required by Minn. Stat. § 360.065, subd. 1.
34. Forty-four people signed in on the attendance sheets. All persons in attendance and wishing to do so were given an opportunity to testify or provide written comments.
35. The proceedings of the public hearing were transcribed by a qualified court reporter.
36. A full record of the public hearing process is set forth in the Draft Crystal Airport Zoning Ordinance Public Hearing Report, including responses to public comments.

C. Submittal to the Commissioner

37. Prior to adopting custom airport zoning regulations, a JAZB must submit the proposed regulations and supporting record to the Commissioner. The Commissioner must determine whether the proposed regulations and supporting record (1) evaluate the applicable criteria in Minnesota Statutes, section 360.0656, subd. 1, and (2) provide a reasonable level of safety. *See* Minn. Stat. § 360.0656, subd. 2.

38. At its June 15, 2023, meeting, the Crystal JAZB accepted a report on the public hearing and considered clarifications of the draft Airport Zoning Ordinance in response to questions received during the public hearing process. The JAZB also considered the procedural requirements associated with submittal of the draft Airport Zoning Ordinance to the Commissioner. The JAZB approved submission of the following materials to the Commissioner:
 - a. Crystal JAZB Meeting Record
 - b. Public Hearing Report;
 - c. Analysis of Custom Airport Zoning Factors; and a
 - d. draft of the Airport Zoning Ordinance.
39. On June 26, 2023, the Crystal JAZB chair, Richard Weyrauch, transmitted the above-listed materials to the Commissioner.

D. Commissioner's Order and Approval

40. On September 24, 2023, the Commissioner issued Order No. 644 (“**Commissioner's Order**”).
41. The Commissioner concluded the following:
 - a. Adoption of the draft Crystal Airport Zoning Ordinance is necessary for both the operation of the Crystal Airport and the safety of both the public frequenting that airport and the occupants of land in its vicinity.
 - b. The draft Crystal Airport Zoning Ordinance and supporting record evaluate the criteria under Minnesota Statutes, section 360.0656, subd. 1 and provide a reasonable level of safety.
 - c. A bona fide effort to comply with the requirements of Minnesota Statutes, section 360.065, subd. 1, was made prior to the approval of the proposed Crystal Airport Zoning Ordinance.
42. The Commissioner approved the Crystal Airport Zoning Ordinance.

E. Adoption by the Crystal JAZB

43. On November 8, 2023, the Crystal JAZB met and considered the Commissioner's Order; the draft Airport Zoning Ordinance approved by the Commissioner; and this Final Statement of Legal Authority, Findings of Fact, Conclusions of Law, and Order.
44. No changes were made to the draft Airport Zoning Ordinance approved by the Commissioner.
45. The Crystal JAZB approved this Final Statement of Legal Authority, Findings of Fact, Conclusions of Law, and Order; and adopted the draft Airport Zoning Ordinance as the final Crystal Airport Zoning Ordinance.

III. CONCLUSIONS OF LAW

46. The Crystal JAZB was properly constituted as required by Minnesota Statutes, section 360.063.
47. The Crystal JAZB complied with the procedural requirements for approval and adoption of airport zoning regulations, as required by Minnesota Statutes, sections 360.065 and 360.0656.
48. The Crystal JAZB complied with the statutory requirements in developing and adopting custom airport zoning regulations, as required by Minnesota Statutes, section 360.0656.
49. The Crystal Airport Zoning Ordinance complies with the requirements of the Airport Zoning Statute.
50. The Crystal Airport Zoning Ordinance provides a reasonable level of safety.
51. The Crystal Airport Zoning Ordinance meets or exceeds federal standards for the establishment of airspace and land use safety zones.
52. Any findings that might properly be termed conclusions and any conclusions that might properly be termed findings are hereby adopted as such.

IV. ORDER

Based upon the foregoing findings and conclusions, the substantial evidence contained in the record, and the applicable law, the Crystal JAZB concludes that the Crystal Airport Zoning Ordinance should be adopted.

Approved on November 8, 2023.

I hereby certify that this is a complete, true, and correct copy of the Final Statement of Legal Authority, Findings of Fact, Conclusions of Law, and Order as approved by the Crystal JAZB on November 8, 2023.

Richard D. Weyrauch, Chair

Crystal Joint Airport Zoning Board

Date: _____

Rebecca Townsend, Secretary

Crystal Joint Airport Zoning Board

Date: _____