

RESOLUTION ____-____-____

**A RESOLUTION BY THE McCONE COUNTY COMMISSION
DENYING THE CREATION OF THE McCONE MOUNT ANTELOPE PARK
PLANNING AND ZONING DISTRICT**

WHEREAS, on November 10, 2025, a petition was filed with the McCone County Clerk and Recorder by the affected real property owners of the property within the area described in the petition and attached maps to create a planning and zoning district pursuant to Title 76, Chapter 2, Part 1 of the Montana Code Annotated (MCA); and

WHEREAS, the McCone County Clerk and Recorder certified on XXXX 2026, that pursuant to MCA Section 76-2-101(1), XXXX% percent of the affected real property owners within the proposed district had signed petitions requesting the creation of Citizen Initiated Zoning District that consists of more than 40 acres; and

WHEREAS, on February 23, 2026, the McCone County Commission held a public hearing to consider the creation of the McCone Mount Antelope Park Planning and Zoning District;

WHEREAS, notice of the public hearing was provided in accordance with state law, stating the written comments could be provided to the McCone County Commission and that oral comments would be taken at said public hearing;

WHEREAS, at the public hearing citizens and residents of the proposed Citizen Initiated Zoning District spoke or offered comments in favor of and in opposition to creating the district and why creating the district was or was not in the public interest or convenience;

WHEREAS, the McCone County Commission, after reading the submitted written comments and considering the oral comments provided at the public hearing, make the following findings of fact:

- Creating the district and adopting appropriate regulations may protect the public health and safety and general welfare of the people who reside within the district;
- Creating the district and adopting appropriate regulations may protect the property values of the surrounding non-participating landowners of the district;
- Creating the district and adopting appropriate regulations may allow for protection of large agricultural producers within the district who grow crops and raise livestock for human consumption;
- Creating the district and adopting appropriate regulations may preserve and maintain the character of the area and may promote growth commensurate with the character of the property and uses existing within the district;
- Creating the district and adopting appropriate regulations may promote development which is compatible with the present character of the area within the district;
- The County Commissioners considered the public comments made both in support and in opposition to the creation of the District, with discussion on both sides generally revolving around the protection of private property rights, with opponents focusing on the impact that development on adjacent property would impact the free use and enjoyment of their own property;
- The State of Montana has enacted wind turbine regulations in statute establishing minimum standards for setbacks and de-icing as set forth in in House Bill 939 (2025) although enforcement provisions appear to be lacking;
- The Natural Resources Conservation Service (NRCS) has adopted a Long-Range Strategic Plan for McCone County which includes general plans for the decommissioning and removal of windmills used for the pumping of water for agricultural and domestic uses, and replacement of the same with solar pumping units;
- The Commissioners find that the 2025 McCone County Growth Policy states that: “the protection of private property rights should also be paramount, when

decisions are made, with regards to land use;”

- The Commissioners find that the Montana Constitution Article II, Section 3, entitled "Inalienable Rights," guarantees that all people are born free and have certain inalienable rights, including the right to a clean and healthful environment, to pursue life's necessities, and to defend their lives and liberties. It also includes the rights to acquire property and to seek safety, health, and happiness in all lawful ways, while acknowledging that these rights come with corresponding responsibilities;

Public comment considered by the County Commissioners included concerns regarding the following:

- Potential sounds, light pollution, flicker, shadow, vibration, wake, electromagnetic, electrical & radio frequency interference, and noise;
- turbine heights and fire suppression;
- view shed, to preserve the view shed and its value;
- the cost of decommissioning that may be the responsibility of the county or the Federal Government;
- truck traffic during construction on our roads, who would be responsible for maintenance, upkeep, and concerns about speed limits, safety and dust control;
- sufficient setbacks from turbines for residential and non-participating landowners, as well as shallow water wells and county roads;
- concerns about using adjacent landowners wind rights;
- the ability to control predators, control by aerial hunting and the cost of alternative predator control, and other aerial pest control;
- the potential negative effects to sharp tail grouse leks;
- that wind farms would bring in money for maintaining infrastructure, providing new jobs, and may increase the tax revenue for the county;
- protecting view shed becomes complicated as the county has no jurisdiction over State and Federal lands with checkerboard ownership;

- the County's inability to reduce taxes and still provide services in the future without an increased tax base;
- projected impact fees are estimated to be .05% of estimated cost of project for each year for 3 years, and can be used for any governmental purpose;
- the administrative and enforcement costs of the proposed district and regulations;
- regarding tax abatement vs no tax abatement, which benefits the county most? The Commissioners voted to deny tax abatements to the project at a public meeting in 2025.

Legal issues raised by the public and considered by the County Commissioners included:

- the protection of property rights of participating landowners who have signed contracts for wind development, whose property is located within the proposed zoning district, and who did not sign the petition for Part 1 zoning, to develop their property in a manner which was lawful at the time their contracts were executed and publicly recorded several years previous;
- that the proposed zoning district if established "as is" might prevent construction;
- that State and Federal lands within the proposed district are exempt from complying with zoning regulations;
- concerns regarding decommissioning bonding, which is under the jurisdiction of the State of Montana;
- the School Trust Lands requirement to bring in maximum tax revenue to support schools;
- that McCone County might be liable for the enactment or enforcement of any regulations, should the county adopt the zoning regulations as written and presented by Petitioners.

WHEREAS, Montana Code Annotated Section 76-2-110, entitled "Appeal Procedure," provides as follows: "Any person aggrieved by any decision of the commission or the board of county commissioners may, within 30 days after such decision or order, appeal to the district

court in the county in which the property involved is located.”

NOW THEREFORE, BE IT RESOLVED that the McCone County Commission does hereby accept the Clerk and Recorder’s certification of XXXX% of the affected property owners having signed the petition, adopts the foregoing findings of fact, and based on said findings of fact, determine that the concerns of the opponents to the creation of the district do dictate that the creation of the district is not in the public interest or convenience, and does hereby DENY the creation of the McCone Mount Antelope Park Planning and Zoning District.

PASSED AND ADOPTED THIS _____ day of February, 2026

**THE BOARD OF COMMISSIONERS
McCONE COUNTY, MONTANA**

Alan Stempel, Presiding Officer

ATTEST:

Ty R. Taylor, Member

(SEAL)

Lonny Jensen, Member

Sherry Kluth, Clerk & Recorder