

RESOLUTION 26-03-02(A)

**A RESOLUTION BY THE McCONE COUNTY COMMISSION
CREATING 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 March 2, 2026, that pursuant to MCA Section 76-2-101(1), 83% 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 Citizen Initiated Zoning District; and

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 of McCone County and residents of the proposed Citizen Initiated Zoning District spoke or submitted a response 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; and

WHEREAS, the McCone County Commission, after reviewing the comments and considering the 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 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 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, electromagnetic, electrical & radio frequency interference, and noise;
- turbine heights and fire suppression;
- historic use of the land for agriculture and preservation;
- landowners have been caretakers of the land;
- landowners have traditionally used good neighbor practices to benefit the land and their neighbors;
- individual rights remain paramount for landowners;
- the Type I zoning will allow development while protecting the land and landowners;
- over 80% of landowners in the area support Type I zoning;
- an audio clip showed the noise generated by a turbine;
- “economically not feasible” was a term to describe wind turbines;
- the responsible company for original leases has changed with concern about future ownership for the project;
- generational families continue to take care of the land and leave a legacy for their family, but wind turbines take land out of production;
- 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 that 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, at a public meeting in 2025, to deny tax abatements to the project.
- concern that height caps or extreme multi-mile setbacks- would make it nearly impossible to build infrastructure for community needs for Public Safety, Healthcare, Education, Agriculture and Business, Fairness and Investment. Also ensure approval timelines meet federal standards.
- concern that height and setback constrictions could reduce coverage, and capacity, require more towers. The county must adhere to Federal Law Section 6409 for colocations and modifications with time constraints.
- a claim that wind turbines do not negatively impact surrounding property values.
- concern about long term economic considerations and mentioned the taxes and fees that could benefit McCone County and the local schools.

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” may 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;
- that McCone County may be liable for the enactment or enforcement of any regulations, should the county adopt the zoning regulations as written and presented by Petitioners.

WHEREAS, Real property owners in a zoning district may petition the board of county commissioners to submit a referendum to the registered electors residing in the zoning district to terminate the zoning district. The petition must be in writing and contain the signatures and addresses of 20% or more of the real property owners in the zoning district. The petition requesting a referendum for the termination of a zoning district must be delivered to the county Clerk and Recorder, who shall endorse on it the date when the petition was received and validate the signatures within 60 days of receipt of the petition. If the petition contains valid signatures of at least 20% of the real property owners within the zoning district, the County Clerk and Recorder shall notify the County Commissioners.

NOW THEREFORE, BE IT RESOLVED that the McCone County Commission does hereby accept the Clerk and Recorder’s certification of 83% of the affected property owners having signed the petition, adopts the foregoing findings of fact, and based on said findings of fact, determine that creating the district will allow for reasonable and lawful regulation of adjacent land uses so as to protect adjoining land owners, that the issues raised by the proponents of the creation of the district dictate that the creation of the district is in the public interest and convenience, and does hereby create the McCone Mount Antelope Park Planning and Zoning District which is depicted in the map attached hereto as Exhibit “A,” and incorporated by this reference.

BE IT FURTHER RESOLVED THAT a definitive legal description may be developed and included in any subsequently adopted zoning regulations applicable to the district; and The County Commissioners, by separate action, shall establish a zoning commission from citizens residing within the District who are interested in serving on the zoning commission for the said District, and shall empanel a zoning commission in accordance with MCA 76-2-102.

PASSED AND ADOPTED THIS 2nd day of March, 2026



ATTEST:

(SEAL)

Sherry Kluth
Sherry Kluth, Clerk & Recorder

THE BOARD OF COMMISSIONERS
McCONE COUNTY, MONTANA

Alan Stempel
Alan Stempel, Presiding Officer

Ty R. Taylor
Ty R. Taylor, Member

Lonny Jensen
Lonny Jensen, Member