

HB349 INTRODUCED



1 HB349
2 JPXJZFF-1
3 By Representative Lipscomb (Constitutional Amendment)
4 RFD: Local Legislation
5 First Read: 29-Jan-26



SYNOPSIS:

This bill would propose an amendment to the Constitution of Alabama of 2022, relating to Etowah County, to create the Whorton Bend Agricultural Protection Act.

This bill would propose to define the boundaries of the protected Whorton Bend Community area, to specify the permitted and prohibited activities within the protected area, and to provide exemptions.

A BILL
TO BE ENTITLED
AN ACT

To propose an amendment to the Constitution of Alabama of 2022, relating to Etowah County, to create the Whorton Bend Agricultural Protection Act; to define the boundaries of the protected Whorton Bend Community area; to specify the activities which are permitted and prohibited within the protected area; and to provide exemptions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The following amendment to the Constitution of Alabama of 2022, is proposed:

(a) This section shall be known and may be cited as the



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Whorton Bend Agricultural Protection Act.

(b) The Legislature finds that the area commonly known as the Whorton Bend Community is a peninsula that possesses unique agricultural, environmental, and rural residential characteristics; contains sensitive wetlands, riparian buffers, and flood-prone lands along the Coosa River; and is experiencing development pressures that threaten long-standing land uses. The Legislature further finds and declares that it is in the public interest to preserve the Whorton Bend Community's agricultural viability, environmental stability, and community character through the establishment of development protections tailored specifically to the community.

(c)(1) This section applies only to the territory located within the Whorton Bend Community in Etowah County. The territory includes both incorporated and unincorporated areas of the community, including those portions of the community that lie within Etowah County and the City of Gadsden.

(2) Neither the Etowah County Commission nor the governing body of the City of Gadsden may alter the boundaries of the Whorton Bend Community as established and protected by this section.

(3) Any future annexation, incorporation, or municipal action affecting the community is subject to this section.

(d)(1) For the purposes of this section, the boundaries of the Whorton Bend Community include the Whorton Bend Peninsula and all land lying within the peninsula as follows:



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a. Beginning at the intersection of State Highway 77 and Whorton Bend Road, thence traveling easterly along Whorton Bend Road to its intersection with Garmin Road. Thence following Garmin Road generally north and east to its intersection with Oakland Drive. Thence following Oakland Drive northerly to its intersection with Whorton Bend Road. Thence continuing northerly along Whorton Bend Road to the point at which Whorton Bend Road reaches or adjoins the Coosa River.

b. From the point at which Whorton Bend Road reaches or adjoins the Coosa River, the boundary shall follow the meander of the Coosa River shoreline, continuing around the perimeter of the Whorton Bend Peninsula until returning to the point opposite the intersection of State Highway 77 and Whorton Bend Road, encompassing all shoreline frontage.

c. All lands lying to the left of the roadway path described in paragraph a., and lying landward of the Coosa River shoreline, are included within the boundaries, provided that only those lands that are contiguous to the named roads or to the shoreline and are customarily understood to be part of the Whorton Bend Peninsula are included.

(2) The Etowah County mapping authority shall define the final metes-and-bounds description without altering the territorial extent described in this subsection. A copy of the final description shall be filed with the Etowah County Revenue Commissioner.

(e) (1) The Whorton Bend Community area protected by this section is designated for the continued support and



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85 preservation of agricultural, horticultural, silvicultural,
86 and related rural uses.

87 (2) Commending on the ratification date of this
88 section, no governmental entity may approve, authorize, or
89 permit any rezoning, subdivision, or land-use action that has
90 the potential of substantially interfering with or
91 diminishing:

- 92 a. Agricultural operations;
- 93 b. Water-dependent farming uses;
- 94 c. Farm-related accessory structures; or
- 95 d. Agricultural commercial activities integral to farm
96 operations.

97 (3) Commercial structures and operations directly
98 related to farming or agriculture are expressly permitted
99 including, but not limited to, farm supply, feed and seed,
100 produce stands, farm equipment storage, and agricultural
101 processing or distribution operations available to local
102 farms.

103 (f)(1) No inland development activity may be approved
104 that results in the filling, altering, channelizing, or
105 degrading of wetlands, riparian buffers, natural floodways, or
106 marshlands within the protected Whorton Bend Community area.
107 Shoreline development is subject to all requirements existing
108 on the ratification date of this section.

109 (2) Any person who proposes development within the
110 protected Whorton Bend Community area shall demonstrate that
111 the proposed development will not adversely affect the Coosa
112 River shoreline, tributary wetlands, or hydrologic systems



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113 within the community.

114 (3) The Alabama Department of Environmental Management
115 and the U.S. Army Corps of Engineers shall retain jurisdiction
116 over all regulated waters and wetlands within the protected
117 Whorton Bend Community area.

118 (g) (1) Except as otherwise provided in this section,
119 commencing on the ratification date of this section, no new
120 commercial or industrial development may be permitted within
121 the protected Whorton Bend Community area.

122 (2) All of the following are exempt from this section:

123 a. Preexisting commercial structures located within or
124 on the immediate perimeter of the protected Whorton Bend
125 Community area may continue to operate and may maintain,
126 repair, renovate, or construct new structures within or on
127 those preexisting structures or the property upon which the
128 structures are located.

129 b. Commercial structures supporting agricultural or
130 forestry operations.

131 (h) (1) Residential structures and dwellings located
132 within the boundaries of the protected Whorton Bend Community
133 area on the ratification date of this section, may continue to
134 be used, maintained, or rebuilt in the event of casualty. The
135 construction of residential structures and dwellings after the
136 ratification date of this section, shall be subject to all
137 applicable zoning and subdivision standards and the
138 agricultural and environmental protections provided by this
139 section.

140 (2) This subsection shall have no effect on a valid



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contract for the construction of a residential structure or dwelling within the boundaries of the Whorton Bend Community area executed before the ratification date of this section.

(3)a. Any other provision of law to the contrary notwithstanding, commencing on the ratification date of this section, no governmental entity may approve, authorize, or permit the construction or establishment of either of the following in the Whorton Bend Community:

1. Multifamily residential structures including, but not limited to apartments, condominiums, townhouses, duplexes, triplexes, quadplexes, or any other residential structure designed or intended to contain more than one dwelling unit on a single lot or parcel, regardless of ownership form.

2. High-density single-family residential developments, including garden homes, patio homes, zero-lot-line homes, cluster developments, or any other residential structure or subdivision characterized by reduced lot sizes, attached units, shared walls, or common open space, that is inconsistent with the rural, agricultural, and low-density character of the Whorton Bend Community.

b. For the purposes of this section, the density, configuration, and physical characteristics of a residential development shall control, regardless of the terminology used to describe the development.

(4) Any newly constructed single-family residential dwelling permitted after the ratification date of this section, shall be located on a lot of not less than one acre, exclusive of public rights-of-way and flood-prone lands,



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except where such lots were lawfully platted and recorded as part of an existing, documented subdivision before the ratification date of this section.

(5) For the purposes of this subsection, the following terms have the following meanings:

a. GARDEN HOME or PATIO HOME or CLUSTER DEVELOPMENT.

Any residential development characterized by reduced lot sizes, zero-lot-line construction, shared walls, common open space, or other design features intended to increase residential density beyond that of conventional single-family detached housing.

b. MULTIFAMILY RESIDENTIAL STRUCTURE. Any building or group of buildings containing more than one dwelling unit, whether attached or detached, regardless of ownership structure, tenure, or method of conveyance.

(i) This section may be enforced by the Etowah County Commission, the City of Gadsden, affected landowners, and any party with standing under state law. No land-use action inconsistent with this section may be approved by any local government.

(j) Nothing in this section shall be construed to limit the rights of property owners to continue lawful agricultural operations, timber practices, or farm-related commercial functions.

Upon ratification of this constitutional amendment, the Code Commissioner shall number and place this amendment as appropriate in the constitution omitting this instructional paragraph and may make the following nonsubstantive revisions:



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change capitalization, hierarchy, spelling, and punctuation for purposes of style and uniformity; correct manifest grammatical, clerical, and typographical errors; revise internal or external citations and cross-references; harmonize language; and translate effective dates.

END PROPOSED AMENDMENT

Section 2. An election upon the proposed amendment shall be held in accordance with Sections 284, 284.01, and 285 of the Constitution of Alabama of 2022, and the election laws of this state. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Etowah County, proposing an amendment to the Constitution of Alabama of 2022, to create the Whorton Bend Agricultural Protection Act; to define the boundaries of the protected Whorton Bend Community area; to provide for the activities which are permitted and prohibited within the protected area; and to provide exemptions.

Proposed by Act ____."

This description shall be followed by the following language:

"Yes() No()."

Section 3. The proposed amendment shall become valid as part of the Constitution of Alabama of 2022, when approved by a majority of the qualified electors voting thereon.