



Making Environmental Rights Enforceable and Meaningful

The Delaware Green Amendment

Industrial externalities, damaging development, and misplaced government decision-making have allowed the inalienable rights of Delaware residents to plentiful and pure water, clean air, a stable climate, and healthy environments to be violated. Despite state environmental laws, regulations and agencies, Delaware water, air, soils, landscapes, and special natural spaces have been allowed to degrade in ways that are harming every aspect of people's lives. An effective Constitutional amendment could help change that.



A Green Amendment would constitutionally mandate that Delaware government officials protect the environmental rights of all residents, including present and future generations. The self-executing amendment will allow legal redress when this right is violated by government overreach or inaction.

Establishing an enforceable environmental right will drive better government decisionmaking at all levels of government and will prevent situations or conditions in which land becomes too contaminated,

water becomes too polluted, and air too dirty to support healthy lives, including a healthy economy.

In order to obtain this highest level of protection in Delaware, a proposed amendment must pass both houses of the legislature by a 2/3 vote in two consecutive legislatures, with broad publication to the people prior to the general election in between, before being added to the state constitution. There is no role for the Governor in this process.

The Delaware Green Amendment will amend Article I of the Constitution to recognize and protect the rights of all of the people of Delaware **“to a clean and healthy environment,”** including protection of **“water, air, soil, flora, fauna, ecosystems, and climate, and to the preservation of the natural, cultural, scenic and healthful qualities of the environment.”** The proposed amendment will also recognize the duty of the state to **“serve as trustee of the State’s natural resources”** and to **“conserve, protect, and maintain”** the state’s natural resources for both present and future generations.

Amend Article 1 by adding a new paragraph 22 to read:

The people of Delaware have an inherent, indefeasible and inalienable right to a clean and healthy environment, including water, air, soil, flora, fauna, ecosystems, and climate, and to the preservation of the natural, cultural, scenic and healthful qualities of the environment. The State shall not infringe upon these rights, by action or inaction. The State's natural resources are the common property of all the people, including both present and future generations. The State, including all branches, agencies and political subdivisions, shall serve as trustee of the State' natural resources and shall conserve, protect, and maintain these resources for the benefit of all its people. This provision and the rights stated herein are self-executing and on par with other protected inalienable rights.



GREEN AMENDMENTS
FOR THE GENERATIONS
Pure Water. Clean Air. Healthy Environment.

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A Delaware Green Amendment will...

- ✔ Ensure every government official in the state will work to advance environmental protection and pollution prevention at every level of the decisionmaking process, rather than waiting until the end of the process when the focus is necessarily on permitting and managing pollution and degradation;
- ✔ Fill the gaps in environmental laws and provide a legal basis for securing water, air and environmental protection even in those situations where there is no state law or regulation to provide protection - e.g. a Green Amendment could have helped prevent PFAS contamination before it started;
- ✔ Strengthen environmental justice by ensuring all communities - regardless of race, ethnicity or socioeconomic status - have the same rights to clean water and air and healthy environments and establishes a duty on all government officials to protect all communities equitably;
- ✔ Prevent a claim of property rights from justifying pollution or environmental degradation that harms the surrounding community; now environmental rights are on par with property rights and must be included in the fair balancing of rights impacted by government action;
- ✔ Ensure consideration of existing environmental conditions and cumulative impacts as part of decisionmaking so the additive impact of new pollution/degradation on an already overburdened environmental justice community is a recognized and addressed part of government action - it will not be enough to just understand the information; government must act upon it;
- ✔ Empower communities to address unconstitutional infringement on environmental rights such as clean water and air, by providing constitutional grounding for their advocacy and access to the courts for redress;
- ✔ Strengthen healthy economic growth that avoids the costs of environmental harm including illness, cleanup costs, flooding, drought, declining property values and lost tax revenues; and
- ✔ Place the rights to clean water and air, a stable climate and healthy environments legally on par with the rights to "freely speak," "a speedy and public trial," "free exercise of religious worship," "compensation" for private property taken for a public use, and against "unreasonable searches and seizures."