

Green Amendment Precedent

How Green Amendments Are Recognizing & Protecting Environmental Rights

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

Pennsylvania, Montana, New York, are the only three states in the U.S. that currently promise, protect and respect constitutional environmental rights protected on par with other fundamental human, civil and political rights we hold as inviolate, inherent, indefeasible and inalienable rights protected from government infringement and transgression. In this series we share the varied ways that constitutional recognition is providing meaningful and transformative protection in the states where they exist, thereby making the case for constitutional Green Amendments in states across our nation and ultimately at the federal level.

Warehouse Denied
Middletown Township, Delaware County, PA

On November 19, 2024, an application for development of the "Franklin Mint Industrial Warehouse" was filed by Outrigger Industrial Acquisition, LLC with Middletown Township, Delaware County, PA. The application, which was followed by multiple revisions, was for a proposed land development project. The site was vacant (previous development of the site had been demolished); the rear portion of the property was wooded and included waterways (tributaries to Chester Creek), wetlands and a vegetated riparian corridor. The property to be developed was approximately 60 acres in size. The application proposed "construction of a one-story, 334,000 square-feet 'speculative warehouse' and 'distribution building,' driveways, parking lot, truck loading/unload clocks, truck parking and related stormwater management facilities." The project's application was reviewed by, among others, the Middletown Township

Engineer, Zoning Officer, Township Fire Chief, and the Middletown Township and the Delaware County Planning Department. During this review period, the project was the subject of multiple public meetings.

Ultimately, the Middletown Township Council denied the application. The Council determined that the application was "not in conformity with the Township's Subdivision and Land Development Ordinance (SALDO) and Zoning Ordinance (Zoning Code) requirements." In an 11-page resolution passed by the Council on August 20, 2025, a lengthy list of reasons was provided for why the application was denied. The final provision relied upon the Pennsylvania Green Amendment, Article 1 Section 27 of the state constitution, and pronounced:

> "Failure to deny this Application would violate Article [1] § 27 of the Pennsylvania Constitution, which states: 'Natural resources and the public estate: The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.' Under the Constitution Article [1 §] 27 quoted above, the Township is mandated to conserve and maintain the people's right to clean air, pure water and to the preservation of the natural, scenic, historic and esthetic values of the environment. The record here shows that approval of this Application with the intended diesel truck traffic could significantly exacerbate an already dangerous air pollution condition in the area where this project is proposed as well as greatly impact the environment with excessive noise and light pollution as well as a more dangerous traffic environment. Accordingly, the Township finds that it is warranted by Article [1 §] 27 of the Constitution to deny this Application."