Implementing the Green Amendment in New York: Tools for Municipalities and Advocates

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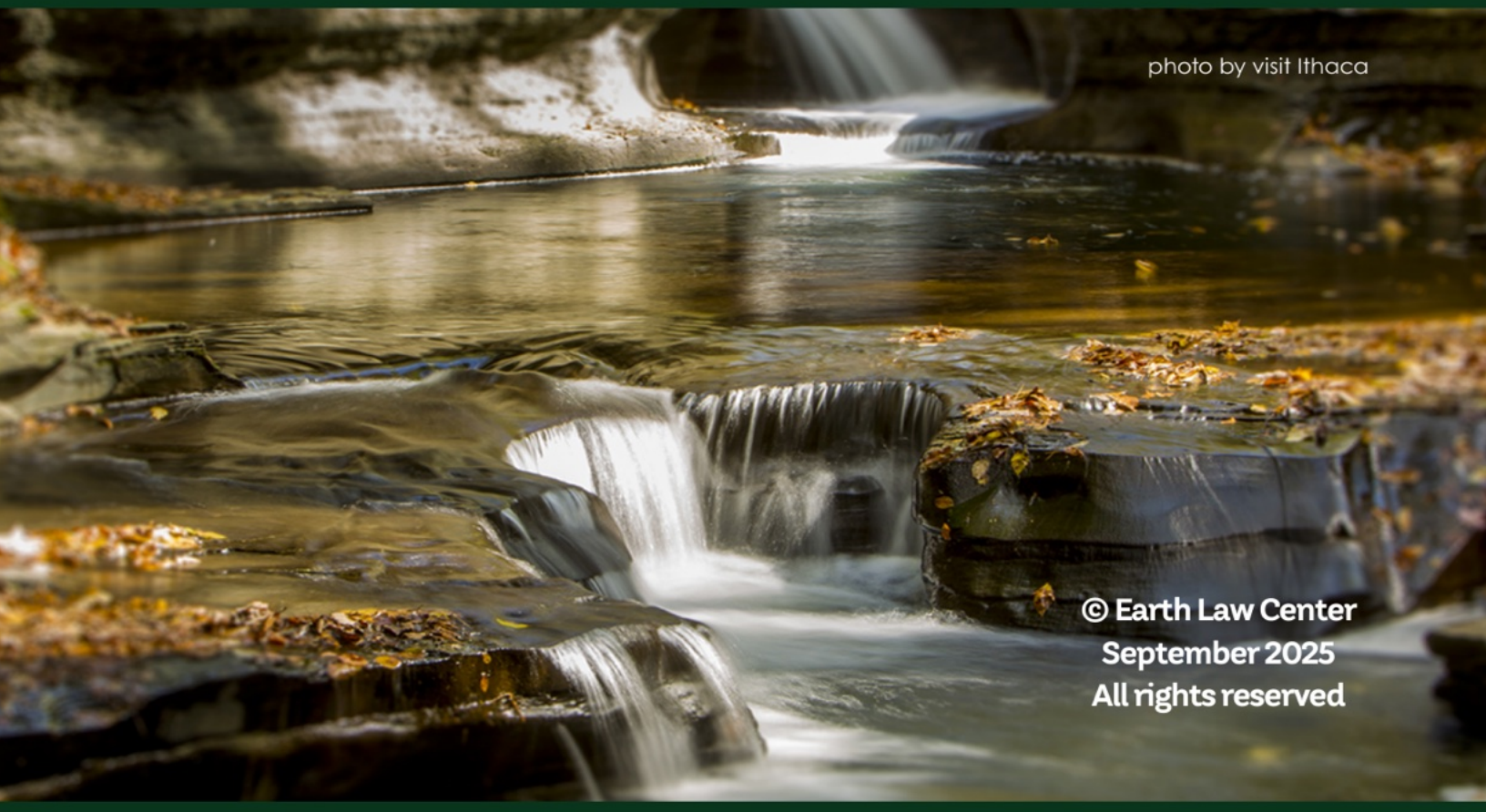

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Special thanks to Meseret Carver, Rachel Lowe, Emily Zinkula, Gary Bowitch, Aitana Rosas Linhard, and Danielle Ellis

Earth Law Center is available to advise local and Tribal governments or authorities on the implementation of ecocentric or rights-based laws. Please contact us to express interest in a jurisdiction-specific landscape analysis, assistance with legal drafting, or other services to implement and fund actions aligned with the national Green Amendment movement.

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Photo by Artie Raslich / New York Post

OVERVIEW

This "Green Amendment Toolkit" provides New York municipalities, advocates, and community leaders with a roadmap for implementing and strengthening Article I, Section 19 of the New York Constitution—the "Green Amendment" adopted in 2021. This constitutional provision enshrines the right of every New Yorker to clean air, clean water, and a healthful environment. The Toolkit shares the amendment's history, explores emerging case law, and offers model ordinances to guide local governments in fulfilling these rights.

History of the New York Green Amendment

The amendment emerged after decades of limited environmental health protections. Following the 2017 state constitutional convention debate and subsequent legislative actions, it was passed by the legislature and then approved by 70% of voters in November 2021. Public health crises, federal rollbacks, and heightened awareness of climate change and environmental justice fueled support for elevating environmental rights to New York's Bill of Rights.

Interpretation of the Green Amendment

New York Case Law: Courts have so far interpreted the amendment narrowly, rejecting retroactive claims, excluding private entities, and deferring to existing SEQRA and CEQR reviews. Judges remain split on whether the amendment is a self-executing, fundamental right.

Lessons from Comparative Jurisdictions: Pennsylvania and Montana provide stronger precedents. Their courts recognize Green Amendments as self-executing, impose affirmative duties on government, sometimes extend obligations to private actors, and apply higher standards of review to protect environmental rights.

Application of the Green Amendment

Tried and Tested Ordinances: A range of local policies—including emissions controls, PFAS restrictions, lead pipe replacement, stormwater management, and climate action plans—offer proven tools for communities to advance environmental rights.

Innovative and Transformative Ordinances: Globally inspired measures, such as Rights of Nature frameworks and systemic biodiversity protections, encourage municipalities to experiment with bold approaches.

Conclusion

This Toolkit is intended to serve as both a legal reference and a practical guide. While courts continue to define the Green Amendment's scope, municipalities can act now. By adopting proven ordinances and pioneering new ones, local governments can safeguard public health, advance environmental justice, and demonstrate the transformative potential of constitutional environmental rights in New York.

Photo by Paul Buckowski / Times Union

TEXT OF THE NEW YORK GREEN AMENDMENT

Article I, Section 19 [Environmental rights] §19. Environmental rights. Each person shall have a right to clean air and water, and a healthful environment. (Added by vote of the people November 2, 2021.)

ABBREVIATED TERMS

GA - Green Amendment

Provisions added to the Bill of Rights of a State Constitution that recognize and protect the rights of all people to pure water, clean air, a stable climate, and a healthy environment.

NYGA - New York Green Amendment

Approved by voters in November 2021, the NYGA is enshrined in New York's State Constitution as Article I, Section 19. It guarantees that "Each person shall have a right to clean air and water, and a healthful environment."

SEQRA/SEQR - State Environmental Quality Review Act

New York State legislation mandating that all local and state agencies must evaluate the environmental impacts of a state project before taking action.

CEQR - City Environmental Quality Review

The process, mandated by SEQRA, by which New York City agencies determine the effects of any discretionary actions they approve on the environment.

NYS - New York State

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HISTORY OF THE NEW YORK GREEN AMENDMENT

In 2021, New Yorkers voted overwhelmingly to enshrine environmental rights in New York's State Constitution. Article 1, Section 19 of the New York Bill of Rights now guarantees that "Each person shall have the right to clean air and water, and a healthful environment."[1] A firm understanding of the amendment's procedural, legislative, and public history – as well as the sociopolitical context surrounding its passage – is important for courts,[2] lawyers, government actors, and litigants seeking to discern the meaning and potential scope of New York's new constitutional text.

Procedural History

Every twenty years, New Yorkers vote on whether to hold a constitutional convention.[3] When the most recent vote occurred in 2017, voters considered the sufficiency of the environmental provisions in the existing state constitution and whether they should be augmented by a constitutional environmental right. At that time, there were only two provisions in New York's constitution mentioning the environment – both located in Article XIV's Conservation Chapter. Article XIV, Section 1 sets out specific protections for lands in a forest preserve,[4] and Article XIV, Section 4 articulates a general environmental policy to be implemented by the legislature.[5]

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[1] N.Y. CONST. art. 1 § 19.

[2] *See* 20 N.Y. JUR. 2d *Constitutional Law* § 37 (2023) (citations omitted) ("Since history itself is often the true context of constitutional expression, a court faced with the task of construing a particular constitutional provision should look to the history of the times and examine the state of facts existing when the provision in question was framed and adopted.").

[3] N.Y. CONST. art. XIX.

[4] N.Y. CONST, art. XIV, § 1 ("The lands of the state, now owned or hereafter acquired, constituting the forest preserve as now fixed by law, shall be forever kept as wild forest lands.")

[5] N.Y. CONST. art. XIV, § 4 ("The policy of the state shall be to conserve and protect its natural resources and scenic beauty and encourage the development and improvement of its agricultural lands for the production of food and other agricultural products. The legislature, in implementing this policy, shall include adequate provision for the abatement of air and water pollution and of excessive and unnecessary noise, the protection of agricultural lands, wetlands and shorelines, and the development and regulation of water resources.").

Voters ultimately decided against holding a constitutional convention in 2017. But during the consideration period, the Environmental and Energy Law Section ("EELS") of the New York State (NYS) Bar Association convened a taskforce focused on evaluating the existing environmental sections of New York's constitution. The resulting *Report and Recommendations Concerning Environmental Aspects of the New York State Constitution ("Taskforce Report")* was published by the Pace Law Review and adopted by the EELS Executive Committee.[6] The Taskforce Report recommended no changes to Section 1, but reported that the environmental policy in Section 4 lacked sufficient weight as a constitutional protection because it is not self-executing, and therefore, is synonymous with other statutory protections.[7] The Taskforce Report surveyed more robust constitutional protections in other states, and ultimately recommended amending the NYS constitution to add a self-executing environmental right, which would be enforceable against NYS and its subdivisions. The authors of the report emphasized the centrality of the self-executing nature of the proposed constitutional right in their recommendation.[8] The Taskforce Report was intended in part to educate the public about the need for constitutional environmental reform and contributed to the subsequent legislative effort to amend the Constitution.

Legislative History

As an alternative to amendment via constitutional convention, the New York Constitution can be amended through a legislative process, where the proposed amendment is passed by two consecutive terms of the legislature before being put before voters.[9] Shortly after the Taskforce Report was released, state legislators began to draft and introduce bills that would amend the

[6] N.Y. STATE BAR ASS'N ENV'T & ENERGY L. SECTION, REPORT AND RECOMMENDATIONS CONCERNING ENV'TL ASPECTS OF THE NEW YORK STATE CONSTITUTION (Aug. 23, 2017).
[7] Katrina Fischer Kuh, Nicholas A. Robinson, and Scott Fein, *New York's Constitutional Guarantee of Environmental Rights*, 27 LEGIS. AND PUB. POL'Y 361, 369 (2024).
[8] "Self-executing" means that the right is fundamental, rather than that it requires additional legislation to articulate when and how it should be implemented. *See* N.Y. State Bar Ass'n, *supra* note 6, at 212 ("To be effective, the environmental right should be self-executing by providing for any person to enforce the right against the State and its subdivisions through appropriate legal proceedings. As discussed at length above, absent such an enforcement mechanism, the right may lay fallow and provide little value.").
[9] N.Y. CONST. art. XIX (describing how the New York State Constitution can either be amended through a constitutional convention, where delegates propose amendments or a new constitution for voter consideration, or a legislative process, in which an amendment is passed by two consecutive terms of the Legislature and then considered by voters).

Constitution to include an environmental right. The first attempt in 2017 was unsuccessful, passing in the Assembly by a vote of 113 to 26 but failing to advance in the Senate.[10] The Green Amendment bill's first passage occurred in the 2019 legislative session, and the second occurred in 2021 (by a vote of 124 to 25 in the Assembly and 48 to 14 in the Senate).[11] The proposal was put before voters in November 2021 and passed with 70% of the vote.[12] Article 1, Section 19 was formally adopted into the New York Constitution's Bill of Rights on January 1, 2022.

Sociopolitical Context

Constitutional amendments passed through the legislative process do not leave as detailed a record as those passed through a constitutional convention, rendering legislator and voter intent, essential considerations for interpretation and enforcement, less clear.[13] New York legislators decided to add the Green Amendment to Article 1 of the Constitution alongside other fundamental, self-executing rights, rather than to Article 4 or elsewhere in the Constitution. This decision suggests an intent for the right to be similarly self-executing, fundamental, individual, and enforceable. The passage also occurred in the context of a growing nationwide Green Amendment movement, and at a time of increasing awareness of climate change and environmental injustice.

In *New York's Constitutional Guarantee of Environmental Rights*, Kuh et. Al. describe how several significant events shaped the context in which New York's Green Amendment was passed. These include (1) widespread recognition that New York's drinking water contains high levels of contaminants; (2) the Trump Administration's unprecedented rollbacks of federal environmental protections; (3) widespread dissemination of studies linking high death rates from COVID-19 to air pollution; (4) increasing visibility and concern about racism and environmental injustice; and (5) increasing incidences of extreme weather events attributed to climate change.[14] Each of these events shaped the development, drafting, and passage of Article 1, Section 19 and indicate the public and legislative intent to take meaningful action, which would result in

[10] Kuh et. al., *supra* note 7, at 370.
[11] *Id.*
[12] *Id.* at 371.
[13] *See e.g.* Montana Env't Info. Ctr. v. Mont. Dep't of Env't Quality, 561 P.3d 1033 (Mont. 2025) (using proceedings from constitutional conventions to interpret Montana's Green Amendment).
[14] Kuh et. al., *supra* note 7, at 373.

meaningful change. Public commentary during the period of the amendment's passage illuminates how many New Yorkers believed the existence of individual environmental rights to be obvious, and that the amendment was (1) overdue; and (2) confirmed, rather than granted, environmental rights.[15] The message from legislators, voters, and the media was that New York's new Green Amendment is intended to meaningfully change environmental law in New York and address New York's most pressing environmental problems. As surmised by Kuh et. Al., "[t]he amendment was conceived and adopted to go beyond preexisting statutory and constitutional protections."[16]

As a result of the passage of the Green Amendment, as of 2022 the right to clean air, clean water, and a healthful environment are guaranteed for all people in New York. The judicial interpretation of these constitutional rights will largely determine how New York's legislative and executive authorities observe these rights. At the time of passage, proponents of the amendment largely viewed this as a positive feature, which would allow future generations to develop, define, and change the meaning of the amendment as needed. They believed the Green Amendment would have a significant impact in rectifying environmental and racial injustice, improving public health, and challenging inaction by state and local government actors. And they were optimistic that its passage would improve environmental decision making in New York by balancing the scales of justice away from the interests of industry and corporations – and towards those of people, the environment and the Earth.

[15] *Id.* at 386.
[16] *Id.* at 389.

INTERPRETATION OF THE NEW YORK GREEN AMENDMENT

PART I: NEW YORK CASE LAW

OVERVIEW

As a relatively recent addition to the New York Constitution, **the Green Amendment (GA)** is in the early stages of judicial interpretation. Case law addressing its scope is thus limited, with courts cautiously outlining the parameters of its application. However, a few patterns have begun to emerge. So far, Courts have interpreted the Green Amendment relatively narrowly, often seeking to limit claims that can be asserted under it. As one court noted, "Perhaps because it is such a recent addition to our State Constitution, or because it is so succinct, nobody can definitively state what it means."[17] At present, the full impact and scope of the GA has yet to be determined. While the amendment's parameters will become clearer as the case law develops in the coming years, patterns that have emerged in the case law include the following:

- The GA does not apply retroactively to projects or actions that occurred prior to the GA's enactment in 2022.[18]

[17] *Friends of Fort Greene Park v. New York City Parks & Recreation Dep't*, No. 159628/2023, 2025 WL 1819847, at *18 (N.Y. Sup. Ct. July 1, 2025).

[18] *See W. New York Youth Climate Council v. New York State Dep't of Transportation,* No. 808662/2024, 2024 WL 5050061, at *9-10 (Sup Ct, Nov. 15, 2024) (denying the plaintiff's motion for a preliminary injunction, holding that "the Court is hard-pressed to understand how the Expressway's construction violated a law that did not exist.

- Challenged activities must significantly contribute to unclean air and/or water, and/or an unhealthful environment, in order to rise up to being a violation of the GA.[19] However, there is no clear guidance on what counts as a "significant contribution."
- Courts are wary to apply separate GA analyses when projects are already subject to a comprehensive State Environmental Quality Review Act (SEQRA) analysis.[20]
- Courts have strictly ruled that the GA cannot be used to bring claims against private entities, even those operating with state permits.[21]
- It remains unresolved whether the GA creates a self-executing substantive right. Some courts have held that it does, meaning it is immediately enforceable by courts without needing additional legislation, as it represents a core, fundamental interest for New Yorkers.[22] Others have taken a more restrictive approach, arguing that the GA does not create a self-executing substantive right.[23]

Emergent Rules From Notable Cases

Friends of Fort Greene Park, Inc. v. N.Y.C. Parks and Recreation Dep't (2025)

The Supreme Court of New York upheld the city's plan to redesign parts of Fort Greene Park, ruling that the proposed changes did not constitute an unlawful alienation of parkland, were consistent with the park's intended use, and did not violate New York's Green Amendment.

One parameter that courts have begun to address is the interaction between SEQRA and the Green Amendment. In *Friends of Fort Greene Park*, petitioners

Although widely considered a mistake and an example of poor urban planning, it cannot be said to be a violation of constitutionally protected rights.").

[19] *Id.* at 10. *See also* Fort Greene, No. 159628/2023, at *25.

[20] *See* Fort Greene, No. 159628/2023, at *25 (finding that the Green Amendment provides an independent course of action to challenge laws, activities, or proposed actions that pose "significant threats" to the environment but refusing to apply it to local projects subject to SEQRA review"). *See also Marte v. City of New York*, No. 159068/2022, at *6-7 (N.Y. Sup. Ct. Apr. 17, 2023) ("SEQRA and CEQR provide substantial environmental protections and require state and city agencies to consider all manner of factors before approving certain projects").

[21] *See e.g. Fresh Air for The Eastside v. New York,* No. 03950/2024 (N.Y. Sup. Ct. Jul. 26, 2024).

[22] *See Marte,* No. 159068/2022 (holding that because a more demanding review is warranted for constitutional claims, some heightened standard of review may be appropriate for Green Amendment claims as opposed to the arbitrary and capricious standard). *See also* Friends of Fort Greene Par*k,* No. 159628/2023 (citing *Marte* and utilizing a standard of intermediate scrutiny).

[23] *See Chan v. U.S. Dep't of Transp,* 2024 WL 4815673 (S.D.N.Y., 2024) (hesitating to review Green Amendment claims as imposing a higher standard above SEQRA claims).

sued over New York City Park Department's determination to issue a Negative Declaration of Environmental Significance under SEQRA with regard to a construction project in Fort Greene Park in Brooklyn. The project involved renovating a portion of the park to make way for a new staircase and additional entry ramps, which would require the removal of 78 mature trees and two grassy mounds. Petitioners' argued that (1) the Parks Department did an insufficient impact analysis under SEQRA; and (2) that it infringed on petitioners' constitutional right to a clean and healthful environment under the GA. The Court rejected both arguments, siding with respondents' that "this Project was subject to extensive and thorough environmental review under New York's comprehensive SEQRA procedures" and that an independent challenge under the GA would be unnecessary and inappropriate.

A significant portion of the opinion is dedicated to the question of what standard of review courts should apply to Green Amendment claims. Finding that the arbitrary and capricious standard would not recognize the full significance of the Green Amendment, and that a strict scrutiny review would likely be overly burdensome, the Court settled on a standard of intermediate scrutiny. Based on this standard, the Court proposed a three-part test for reconciling competing rights and interests in Green Amendment cases. First, did the government action comply with the applicable statute? Second, did the government action violate an individual's constitutional right to clean air, water, and a healthful environment? Third, if there is a constitutional violation, is the government action justified by an important interest that is substantially related and proportionate to action the government has taken?

The Court found that Petitioner's Green Amendment Claim failed their proposed test. With regards to the first prong, the Court found that the action complied with its obligations under SEQRA. Second, the Court did not find the proposed project to violate a constitutional right, finding that "it is nearly impossible to imagine that the removal of a small number of trees will amount to a violation of the Green Amendment."[24] Accordingly, to succeed under the GA, an action or project must rise to a level that constitutes a clear constitutional violation of environmental rights.[25] Finally, for the third part of the test, the Court held that

[24] Fort Greene, No. 159628/2023, at *23.

[25] While finding that this project does not violate the Green Amendment, the Court did provide examples of projects that would "certainly" implicate a constitutional violation. These include the effects of a landfill, toxic waste site, or noxious fumes which violate the right to clean air, or the demolition of an entire park for the purposes of building a parking lot.

even if there were a constitutional violation, the government's interest in upgrading, modernizing, and making local parks more accessible is an important government interest that is proportional and substantially related to the proposed project.

Fort Greene sets a firm precedent for denying application of the Green Amendment to local projects– what they refer to as "daily occurrences"– on grounds that the impacts are too small to constitute a violation of constitutional rights, "particularly if impacts are temporary and there are long term benefits for the environment and for New Yorkers."[26] Through careful reasoning, the opinion manages to herald the gravity of the GA while simultaneously limiting its applicability. The Court makes a separation of powers argument, reasoning that a court would be an inappropriate forum to essentially "modify the state's environmental regulatory scheme" which should instead fall under the purview of the legislature. The Court also makes a practicability argument, reasoning that citizens already have multiple avenues for litigation, including, *inter alia*, land use and public nuisance laws, and expressing a hesitancy to create environmental standards that went above and beyond SEQRA's already comprehensive state regulatory scheme. At the same time, however, *Fort Greene's* recognition that the GA exists alongside "the most basic and sacred of rights" demonstrates a willingness to engage with the GA in a meaningful way, just as Courts attempt to do with other fundamental, self-executing rights, including habeas corpus, equal protection of laws, and freedom of speech.

Chan v. US Dep't of Transportation (2024)

The Southern District of New York granted summary judgment to the defendants Plaintiffs' NEPA-related claims while dismissing their constitutional challenges in a case challenging New York's Congestion Pricing plan in Manhattan's Central Business District.

In *Chan*, the Court addressed whether the GA could be used to block implementation of Manhattan's Congestion Pricing plan. The plaintiffs argued that the plan would worsen air quality in surrounding areas already experiencing high levels of pollution, as commercial drivers would potentially reroute circuitously to avoid paying the increased tolls. Seeking to enjoin the program,

[26] Fort Greene, No. 159628/2023, at *24.

Plaintiffs claimed that these anticipated changes violated their constitutional right to clean air under the GA. The Court denied the request, finding that Plaintiffs were unlikely to succeed on the merits, and holding that the GA does not create a self-executing substantive right to environmental quality beyond existing legal standards. Rather, it only guarantees a baseline level of clean air, water, and a healthful environment. To bring a viable claim, plaintiffs must demonstrate that this constitutional minimum is not being met.

With regards to the appropriate standard of review, *Chan* applied a lower standard which reflects the Court's hesitation to read the GA as creating a self-executing substantive right that imposes environmental standards above and beyond the state's preexisting environmental regulatory regime. The *Chan* standard simply asks (1) whether New York operates a system that ensures all its citizens have a baseline level of clean air, clean water, and a healthful environment; and (2) whether a particular act deprives "the constitutional minimum of state systems to preserve a healthful environment."[27] If the *Chan* reasoning were to be broadly applied, it would certainly limit the reach of the GA. However, subsequent cases (including *Friends of Fort Greene*) have explicitly rejected Chan's reasoning and set precedent for rendering Chan an outlier.

[27] Chan, 2024 WL 4815673, at *38, 40.

Fresh Air for the Eastside, Inc. v. New York (2024)

The New York Appellate Division, Fourth Department, held that the GA cannot be invoked to compel regulatory enforcement or to target private entities for constitutional violations, and dismissed the plaintiffs' claims in their entirety.

Fresh Air for the Eastside addressed the scope of the GA in litigation involving private actors. The case arose from complaints from a nonprofit group, Fresh Air for the Eastside, composed of local members who lived within a few miles from the High Acres Landfill—the second largest landfill in New York, which is owned and operated by a private company, Waste Management. Plaintiffs alleged that persistent odors and fugitive emissions from the landfill violated their constitutional rights under the GA. In an effort to bypass the clear limitation on GA claims against private parties, Plaintiffs argued that the landfill's operations constituted "state action" due to regulation by the NYS Department of Environmental Conservation (DEC) and the State of New York and New York City's involvement in waste generation and oversight. The court rejected this argument, holding that regulation alone does not convert private conduct, even conduct under a state permit, into state action. The decision reinforces a strict limitation: the GA cannot be used to bring claims against private entities.

Seneca Lake Guardian v. N.Y. State Dep't of Env't Conservation (2024)

New York's Appellate Division, Third Department, held that a nonprofit environmental group had organizational standing to challenge the DEC's permit for County Line Material Recovery Facility (MRF), reversing a lower court's dismissal and finding that its members could plausibly suffer actual harm from PFAS-laden discharge into Cayuga Lake.

In a case before the Albany County Supreme Court, the plaintiffs sought a declaratory judgment that the DEC and the private operator of the Seneca Meadows Landfill had violated their constitutional rights to clean air and a healthful environment under the GA. They alleged that the defendants failed to remedy harm caused by persistent, noxious odors emanating from the municipal solid waste landfill, which they claimed substantially interfered with their daily enjoyment of life, property, and business operations. Since the landfill operated under a DEC-issued permit, Plaintiffs argued that the actions of the

private landfill operator could be classified as state action since the operator's actions were "so intertwined with governmental policies and are so governmental in nature that they constitute governmental action." Relying on the reasoning in *Fresh Air for the East Side (2024)*, and applying factors for determining whether private conduct can be treated as state action, the court concluded that the factual allegations were insufficient to characterize the landfill operator's conduct as governmental action. The decision also included an extensive discussion of the state's enforcement powers and the discretionary authority of state agencies, underscoring the limits of GA claims against non-state actors.

Western New York Youth Climate Council v. New York State Dep't of Transportation (2024)

The New York Supreme Court annulled the Department of Transportation's negative declaration for the Route 33/Kensington Expressway project on grounds of inadequate environmental review and ordered preparation of an Environmental Impact Statement, while denying Plaintiffs' claims under the Green Amendment and Climate Leadership & Community Protection act (CLCPA) as insufficiently specific and not retroactive.

In *Western New York Youth Climate Council*, the court considered whether the GA could be used to challenge the state's approval of a major infrastructure project. The case involved the state's $1 billion Kensington Expressway project, which was anticipated to have significant climate impacts. Petitioners, a youth-led nonprofit organization, alleged that the state's decision to approve the project without a full Environmental Impact Statement (EIS) and based on a Determination of "No Significant Effect" under SEQRA violated their constitutional right to clean air and a healthful environment under the GA. While the Court granted a preliminary injunction, ordering the New York Department of Transportation to halt all construction and prepare a full EIS under SEQRA, the Court rejected Plaintiff's GA arguments, emphasizing that the GA cannot apply retroactively and therefore cannot be used to challenge infrastructure originally built decades before the GA came into force. Since the state project involved "reestablishing" the existing Kensington Highway, which was built sixty years prior, the Court held that application of the GA would be retroactive and therefore inappropriate.

Marte v. City of New York (2023)

The New York Supreme Court granted defendants' motions to dismiss plaintiffs' Green Amendment and environmental challenges to a proposed Lower East Side development, finding the claims to be time-barred, previously rejected, and insufficient to reopen already completed environmental reviews under SEQRA and CEQR.

In *Marte*, several plaintiffs challenged a proposed residential development on Manhattan's Lower East Side, arguing that it violated their rights under the GA. The Court granted the defendant's motion to dismiss, noting that a separate appellate court had already rejected the plaintiffs' challenges to the project on other grounds, and characterizing the GA claim as an improper attempt to get a second "bite at the apple."[28] As in *Friends of Fort Greene*, the court found that Plaintiffs' environmental concerns, which included increased carbon emissions, had already been addressed through SEQRA and CEQR, and saw no reason to revisit those assessments.

However, unlike *Chan*, the *Marte* court suggested that a more heightened standard of review than the arbitrary and capricious standard may be appropriate for GA claims, remarking on the need for a more demanding standard evoked by constitutional claims.[29] Relying on precedent set by other states with Green Amendments, the Court observed that (1) constitutional environmental rights have been interpreted primarily as procedural, not substantive, rights; and (2) courts ignore the substantive rights language in the constitutional text in favor of other language, which is then given its content through other legal doctrines.[30] However, they also observed the contradictory nature of GA interpretation, noting that courts in Pennsylvania and Hawai'I had found these provisions to be self-executing. While the court ultimately dodged the constitutional question by dismissing the case on procedural grounds, the opinion provides dicta in support of a more substantive interpretation of the GA.

[28] Marte, No. 159068/2022, at *6.
[29] *Id.*
[30] *Id.* at *4-5 (quoting Amber Polk, *The Unfulfilled Promise of Environmental Constitutionalism*, 74 HASTINGS L. J. 123, 165 (2022)).

PART II: LESSONS FROM COMPARATIVE JURISDICTIONS (MONTANA, PENNSYLVANIA, AND OTHER STATES)

New York is the sixth state to pass a constitutional provision related to the right to a healthy environment. Montana and Pennsylvania passed such provisions, each within its state bill of rights, as part of the burgeoning environmental movement in the 1970s, and this type of amendment is commonly known as a "Green Amendment" (GA). Hawai'I, Illinois, and Massachusetts enacted environmental rights articles, which are outside their state constitutions' bills of rights and therefore considered to have a more limited scope.[31]

Today, there is a renewed interest in strengthening and expanding these laws, with 16 other states considering similar constitutional provisions.[32] These provisions elevate environmental rights to the status of other constitutional rights. However, courts have varied in their interpretation and enforcement of these rights. Given that existing laws are diverse in strength and language, learning from the decades of practice in other states—especially Montana and Pennsylvania—can help to strengthen implementation of the GA in New York.

This section will briefly compare New York State's emerging precedents with Montana and Pennsylvania, the states with the strongest GA laws and precedents. New York courts have, thus far, answered legal questions under the GA in a more limiting way than these states. How can the future development of New York State's GA case law be strengthened by the lessons learned from these two states? In addition to protections under traditional environmental laws, Gas in Montana and Pennsylvania have been interpreted as offering robust protections, providing citizens additional mechanisms to (1) enforce the government's affirmative duties to protect the constitutional right to a healthy

[31] *See* MAYA K. VAN ROSSUM, THE GREEN AMENDMENT: THE PEOPLE'S FIGHT FOR A CLEAN, SAFE, AND HEALTHY ENVIRONMENT 46-52 (2022).
[32] John C. Dernbach, *The Value of Constitutional Environmental Rights and Public Trusts*, 41 PACE ENV'T L. REV. 153, 160-65 (2024).

environment by declaring the amendment self-executing, and (2) allow suits against private actors.

Strongly implemented Gas have helped to limit government and agency authority. This has made the state governments more accountable for environmental degradation caused by state and private projects. Traditional environmental law requires projects to perform environmental impact assessments (EIA) before commencing with development projects that may negatively affect, for example, environmental justice communities. Maya K. van Rossum, lawyer and pioneer in the GA movement, argues that these requirements often have loopholes that leave environmental justice communities vulnerable to the negative effects of development projects. This includes air and noise pollution, toxic waste, and other health risks that are not seriously considered by state actors when developing alternatives to the planned projects.[33] In states with Gas, citizens have challenged government actions that did not sufficiently consider environmental harms, thus compromising the constitutional rights of current or future generations.

The GA as a Self-Executing Law

These challenges have been possible in Montana and Pennsylvania because courts have found the Gas in their states to be self-executing. The issue of self-execution is highly significant because it determines whether additional legislation is necessary to implement the GA or if it is a fundamental right that gives rise to immediate obligations for the state and other relevant actors.

In 2015, the Pennsylvania Supreme Court used the Public Trust Doctrine provision of the state's GA to declare that funds acquired by leasing public lands must remain in a trust for maintenance and restoration purposes.[34] The GA itself establishes a public trust, and names the people as beneficiaries. An amicus brief argued that additional legislation was needed to implement this trust because no court in any GA state had ever read the provision as self-executing unless it was explicitly stated. The Pennsylvania Supreme Court disagreed.

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[33] Maya K. van Rossum & Kacy Manahan, *Constitutional Green Amendments: Making Environmental Justice A Reality. Natural Resources & Environment,* 36 NATURAL RESOURCES & ENV'T 1, 2 (2021). *See also* Carolyn Drell, & Mia Petrucci, *The Green Amendment: Assessing the Latest Tool in the Environmental Tool Belt*, 41 PACE ENVT'L L. REV. (2023).

[34] *See Pennsylvania Envt'l Defense Fund v. Commonwealth*, No. 10 MAP 2015, 2017 WL 2645417 (Sup. Ct. of Pa. June 20, 2017).

Montana state courts also interpret the GA as self-executing. Montana's GA was adopted as a Declaration of Rights with corresponding responsibilities. This resulted in an easier path for recognizing it as self-executing, as illustrated by cases such as *Held v State,* discussed below. As van Rossum argues, self-execution is preferable in part because requiring additional legislation to implement constitutional rights may lead government actors to be "subservient to the political whimsies of the day with only election politics as the solution for protection and change."[35]
In sum, Pennsylvania's and Montana's courts have given teeth to their Gas by interpreting them as self-executing.

The GA as a Fundamental Right

In the landmark case *Held v. State (2023),*[36] the Montana Supreme Court held that the state's GA encompasses a stable climate system, and declared unconstitutional, under strict scrutiny, a law that barred state agencies from considering greenhouse gas emissions in environmental reviews. The holding affirmed both the plaintiffs' standing to assert their fundamental rights under the GA and the lower court's injunction against enforcement of the challenged state law. At issue was the Montana Environmental Policy Act (MEPA), which affirmatively prohibited considering the effects of Greenhouse Gas emissions (GHGs) when reviewing an EIA for state action. The 16 youth plaintiffs in *Held* fought to include the effects of GHGs in environmental policy, arguing that the failure to do so violated their constitutional rights. The Court agreed, finding that the state was "acting in opposition to its affirmative constitutional duty" by not including GHGs and their contributions to climate change when reviewing state actions.[37] The court granted a permanent injunction on all state actions that did not consider GHGs and found the MEPA limitation to be unconstitutional on its face. Significantly, the court held this to be true regardless of whether requiring Montana to consider GHGs will effectively slow climate change on a global scale, rejecting the State's argument that there must be a particular injury to the plaintiffs and an available remedy (such as a demonstrated ability to reduce climate change). The court disagreed and stated that, while no specific action was at issue, the plaintiffs had a constitutional right to a healthy environment

[35] Van Rossum & Manahan, *supra* note 33, at 4.
[36] No. CDV-2020-307 (Mont. Dist. Ct. Aug. 14, 2023).
[37] *Id.* at 34.

which state actors must affirmatively uphold. This forces the government to uphold the GA on par with other constitutional rights and results in an expansive interpretation of standing, not limited to specific state actions.

Pennsylvania courts have also interpreted their GA as a fundamental right and judged government action with similarly robust standards. In *Pennsylvania Environmental Defense Fund v. Commonwealth (2017)*, the Supreme Court of Pennsylvania held that statutory authority must be construed in light of the agencies' responsibilities as trustees under the GA. This holding effectively limits the scope of agency discretion by preventing it from serving as an excuse not to comply with the affirmative duty to uphold the constitutional right to a healthy environment. In addition, courts have granted municipalities flexibility to challenge state actions that do not align with the GA. For example, in *Robinson Twp. V. Commonwealth (2013)*[38] a Pennsylvania municipality challenged a new act that prevented local regulation of the oil and gas industry, arguing that it prevented local governments from zoning out oil and gas development. The challenge resulted in a ruling from the Supreme Court of Pennsylvania declaring unconstitutional such limitations on municipal authority to protect the people's environmental rights. In addition to relying on more traditional arguments, such as the effects this new regime would have on property values, the court also stated that Pennsylvania's GA grants substantive rights to citizens to protect the environment. These decisions indirectly expand the scope of local government and hold agencies and other state actors accountable for the affirmative duties imposed by Gas.

Holding Private Actors Accountable

In some instances, cases brought under Gas allow citizens to hold private actors accountable for environmental degradation. Surprisingly, states without GAs but with environmental rights articles, such as Hawai'I and Illinois, provide an explicit cause of action against private parties, while states like Montana and Pennsylvania lack an explicit cause of action, requiring courts to interpret such obligations into their Gas.[39] In *Cape-France Enters. V. In re Estate of Peed (2001)*,

[38] 83 A.3d 901, Sup. Ct. of Pa. (2013).

[39] *See* Haw. Const. art. XI, § 9 ("Any person may enforce this right against any party, public or private, through appropriate legal proceedings, subject to reasonable limitations and regulation as provided by law"; see also Ill. Const. art. XI, § 2. "Each person may enforce this right against any party, governmental or private, through appropriate legal proceedings subject to reasonable limitation and regulation as the General Assembly may provide by law.").

the Montana Supreme Court balanced the right to contract with the GA when it ruled that environmental degradation must be considered even in projects between private parties, especially when land can be sold beyond the parties in the future.[40] The court affirmed that the GA's language, "the State and each person shall maintain and improve a clean and healthful environment," applied to private individuals as well as private business. Pennsylvania's courts are increasingly coming to a similar conclusion, but with more limitations. For example, the Supreme Court of Pennsylvania's decision in *Pennsylvania Environmental Defense Foundation v. Commonwealth* limits private party actions by stating that statutory authority must be construed in light of the agencies' responsibilities as trustees. Yet it does not impose specific obligations on private parties.[41] All of these states recognize that private actors can have a big impact on environmental rights and bestow obligations accordingly.

Application of Expansive Interpretations to the New York Green Amendment

As noted in Part I above, New York courts to date have offered a more limited interpretation of the fundamental rights provided by the GA. On the issues of self-execution, standing, and private action, state courts are still in the early stages of developing a rule. Similar to Pennsylvania's courts in the first few decades, New York judges have opted to (1) limit the self-execution of the GA, (2) defer to agency discretion on regulatory matters, and (3) disallow action against private parties. Legal scholars have argued that, in order to allow citizens to truly benefit from the GA, judges must recognize and interpret the GA as a fundamental right with corresponding authority.[42] To achieve this, courts must first interpret the GA—which they sometimes avoid under the doctrine of constitutional avoidance.[43] Thus, the most successful cases have been those which bring a claim solely under the GA, rather than also under other regulatory frameworks. This forces the court to apply a constitutional reading rather than avoid the issue and rule on a regulatory basis.[44] However, this is still not a guarantee that the court will interpret the GA more expansively. In order for the

[40] *Cape-France Enters. v. Peed*, 29 P.3d 1011, 1017 (Mont. 2001).
[41] *Pennsylvania Envt'l Defense Fund,* 2017 WL 2645417.
[42] Kuh et. al., *supra* note 7, at 361.
[43] Constitutional avoidance is a judicial principle stating that courts should avoid deciding constitutional questions if a case can be resolved on non-constitutional (usually statutory or procedural) grounds. It's a form of judicial restraint, developed primarily in federal courts but adopted or adapted by many state courts when faced with questions involving interpretation of state constitutions.
[44] Ibid. *See also* Evan Bianchi et. al., *The Private Litigation Impact of New York's Green Amendment,* 49 COLOMBIA J. OF ENVT'L L. 357 (2024).

NYGA to progress beyond state action and other limitations which the courts have begun to develop, it is helpful to refer to the reasoning and lessons learned from Montana and Pennsylvania on issues such as enforcement against state and private parties and self-execution.

New York courts have toed the line on the question of GA self-execution. It is worth noting that the NYGA is included within the Bill of Rights alongside other fundamental rights such as freedom of speech, assembly, and religion, which have historically been interpreted as self-executing, substantive rights. However, in order for the right to be presumptively self-executing, it must be fundamental. Some New York courts have declared that the GA is a fundamental right while others refused to do so. The court in *Friends Of Fort Greene Park, Inc. V. N.Y.C. Parks And Recreation Dep't* spent a significant time discussing claims that arose from regulatory frameworks rather than the GA. When it reached claims under the GA, the court did declare that the GA was a fundamental right. However, it still limited the GA's implementation, stating that it was wary of creating a "brand-new route to challenge developments on an environmental basis." Others have refused to interpret the GA as a fundamental right. In *Chan v. U.S. Dep't of Transportation*, the court took a more restrictive approach, arguing that the GA does not create a self-executing substantive right. The court held the amendment doesn't create new enforceable standards beyond existing laws, limiting citizens' claims to baseline levels of environmental quality under existing law. In *Friends of Fort Greene Park*, the court also deferred to agency discretion under SEQRA and CEQR, also limiting interpretation of the GA when existing regulatory frameworks overlap with the amendment. The hesitance to recognize a new fundamental right, along with the prohibition on enforcement against some state actions and all private parties, has been a detrimental pattern in the early development of the GA.

In comparison, Pennsylvania and Montana have read their Gas to offer additional protections to existing frameworks. *Held v State* added additional elements to EIA requirements in Montana, and *Pennsylvania Environmental Defense Foundation v. Commonwealth* required agencies to act as trustees, which limited agency discretion on the basis of the GA. These courts not only found the Gas to be a self-executing and a fundamental right but also expanded the substantive rights of citizens beyond existing frameworks. This includes enforcement against private parties. In contrast, NYS courts have categorically prohibited enforcement against private parties. Petitioners in *Fresh*

Air for the Eastside v. State of New York brought a single claim under the GA which aimed to hold the state accountable for being intimately intertwined with private action that led to significant air pollution from waste management. However, the court still found against the petitioners, stating that there must be an significant relationship between the state and private actors (the court left "significant" undefined in this case). Even in cases where the court finds state action, actors are able to avoid responsibility under the GA by arguing that they have met requirements under existing frameworks. Under existing frameworks, Courts usually defer to agency discretion in matters where they are the expert. Thus, courts have read some claims against state actors to compel agency action, which they refuse to endorse (*People v. Norlite, LLC)*. This limit on enforcement against both state and private actors significantly debilitates fuller implementation of the GA.

If New York courts aim to expand environmental rights beyond the protections that existing frameworks offer, then citizens must push for full self-execution of the GA, with additional obligations for state and private actors. This does not mean that existing frameworks are irrelevant—it means that they can be read alongside the GA. For instance, Pennsylvania courts do not directly impose obligations on private parties, but the GA may have an impact when litigating cases against private parties for environmental violations.[45] When it comes to agency action, some scholars have argued that state judges in New York can "implement the Green Amendment by ensuring that SEQRA's 'mitigation' requirement is truly met—specifically by decreasing deference when reviewing agencies' SEQRA findings statements and ensuring that environmental concerns are given increased weight in the analysis, now that their protection is constitutionally obligatory." Foremost, this will require recognizing the GA as a fundamental right with corresponding constitutional interpretation and enforcement. In Montana, the GA is an inalienable right with the highest level of protections. Accordingly, the court should apply strict scrutiny to both state and private action. New York case law is far behind this standard. However, New York courts do recognize the significance of adding the GA to the Bill of Rights alongside "other rights that we hold to be the most basic and sacred of rights."

[45] *See Marques v. Bunch*, 18 Pa. D. & C.3d 371 (Pa. Com. Pl. 1980).

APPLICATION OF THE NEW YORK GREEN AMENDMENT

Model Ordinances for Local Communities Seeking to Uphold and Protect Environmental Rights

Though New York's Green Amendment was written to enable its enforcement at the judicial level, municipal governments can play their own role in advancing the human right to a healthy environment. In fact, municipal governments have already emerged as leaders in this space. The ICLEI – Local Governments for Sustainability, a global network of local governments dedicated to sustainable urban development, has over 500 member governments in the U.S. alone. These municipalities are committed to motivating action for zero emission, nature-based, equitable, resilient, and circular development—all qualities that support the human right to a healthy environment.

This section of the toolkit seeks to provide New York municipal governments with a wide variety of tools to empower them to implement and support the Green Amendment through local action. Part I highlights tried and true ordinances that have already been effectively implemented in other U.S. jurisdictions, and similar measures could be drafted, adopted, and implemented in New York today. Part II explores innovative ecocentric strategies from cities around the world. The NYGA affords new constitutional grounds to provide additional support for municipalities seeking to pass and defend the types of ordinances described in Part I, and for those seeking to push the bounds of traditional environmental governance with the types of measures described in Part II.

Part I – Tried and Tested: Local Government Ordinances for Taking Action

Clean Air

Air pollution threatens public health by causing, and intensifying, respiratory diseases, heart disease, and cancer. It harms local economies by increasing the burden on local healthcare systems, increasing public health costs, and driving out residents and businesses who value clean air. Further, air pollution harms ecosystems by acidifying and contaminating soil and water. Local governments have a duty to protect their communities, and are best positioned to understand the specific pollution sources and challenges in their area. Clean air ordinances are crucial tools for local governments to protect public health, boost local economies, uphold public responsibility, and address community-specific issues. Likewise, they can be effective means to conserve local biodiversity and fight against climate change.

Ways that local governments in New York can protect residents' right to clean air include:

Ordinances Controlling Emissions for Buildings

These ordinances aim to reduce air pollution by requiring or subsidizing electric appliances, mandating energy efficient construction, or requiring retrofitting of high-emission buildings. Examples include:

- New York City Local Law 97: Controls GHGs emissions from large buildings under the Climate Mobilization Act. Penalizes buildings larger than 25,000 ft^2 for surpassing a certain number of emissions and incentivizes a switch to

cleaner energy after a number of years. This law has been challenged but upheld by courts.[46]

- Boston's Building Emissions Reduction and Disclosure Ordinance (BERDO 2.0): Requires existing large buildings to hit declining carbon targets, aiming for carbon neutrality by 2050. Also launched a $3.5 million Equitable Emissions Investment Fund to support decarbonization in environmental justice communities.

Transportation Emissions Ordinances

These ordinances focus on reducing greenhouse emissions from the transportation sector. These include anti-idling ordinances (which limit the amount of time vehicles can idle) and clean fleet requirements (which mandate city-owned vehicles be electric or low-emission). Local governments can also establish low-emission zones in downtown areas or school zones, or incentivize low-emission forms of transportation such as e-bikes or scooters. Examples of transportation ordinances include:

- New York City Anti-Idling Law (2009): Reduces legal idling time from three minutes to one minute near schools. Allows citizens to report violations.
- San Francisco, CA Healthy Air and Clean Transportation Program (2010): (Environmental Code Chapter 4): Promotes the use of zero-emission and low-carbon vehicles, implements policies to minimize the use of single occupancy vehicles and reduce the total number of passenger vehicles and trucks in the municipal fleet, and encourages trip reduction, carpooling, and public transit use. Requires EV infrastructure and charging stations in new buildings and encourages the creation, expansion, and maintenance of alternative fueling infrastructure.
- Raleigh, NC Clean Transportation Ordinance (2023): Comprehensive plan requiring EV infrastructure in new construction projects and mandates for pedestrian connections in new development projects, among others.

[46] *See e.g. Glen Oaks Vil. Owners, Inc.,v. City of New York*, No. 02754, slip op. at 1 (N.Y. App. Div. May 16, 2024).

Monitoring Industrial Emissions

Local governments can pass ordinances to help control pollution from factories and refineries by mandating air pollution reporting, strengthening emissions reporting requirements, improving pollution control technology, or incentivizing reductions in pollution by imposing fees on high emitters. Examples include:

- Cincinnati, OH Toxic Chemical Right to Know Ordinance (1984): Requires industrial producers to report their chemical use and emissions. The model was replicated in other Ohio cities as well.
- Benicia, CA Refinery Emissions Oversight Ordinance (2025): Requires prompt emissions reporting from refineries and other facilities handling hazardous materials and empowers the local government to investigate emissions issues when regional or state governments fall short.

Air Monitoring in Disadvantaged Communities

Some local governments have passed or are considering ordinances to expand air quality monitoring in disadvantaged neighborhoods. These ordinances can include providing equipment, supplies, and staffing to provide air quality monitoring, supporting community-led monitoring initiatives, or other means of improving air quality monitoring. Examples include:

- Sacramento, CA Community Air Monitoring Pilot Program (2021): Pilot program distributed 100 air quality monitors in low income communities affected by pollution.
- Minneapolis, MN Neighborhood Sensor Network (2021): Established a network of air quality sensors across neighborhoods historically affected by air pollution.
- Jacksonville, FL Ordinance 2025-330-E (2025): City Council approved an ordinance allocating $450,000 from the Environmental Protection Trust Fund to expand and enforce air quality monitoring in disadvantaged neighborhoods.

Indoor Air Quality Ordinances

To protect the public from indoor air pollution, local governments can pass ordinances improving ventilation standards, increasing the number of no smoking/vaping zones, and mandating regular testing for toxins like radon or mold. Examples include:

- New York City Asthma Free Housing Act (2018): Requires landlords to prevent and remedy mold infestation and indoor allergens.
- Montgomery County, MD Bill 13-22 (2022): Comprehensive building decarbonization plan that mandates all electric construction by 2026 to promote healthier indoor air quality.
- Chicago's Clean Indoor Air Ordinance (2014): Prohibits smoking and vaping in nearly all enclosed public spaces.

Photo by University of Rochester

Clean Water

Clean water is essential to life, health, and wellbeing. Pollution from runoff, industrial waste, and sewage contaminates rivers, lakes, wetlands, and groundwater. Contaminated water spreads diseases, kills local plants and animals, threatens farming, tourism, and local businesses, reduces property values, and increases the costs of water treatment. Local governments can play a key role in protecting water quality by passing ordinances that prevent pollution, improve public health, and promote environmental and economic sustainability.

Ways that local governments in New York can protect residents' right to clean water include:

Fighting PFAS, or "Forever Chemicals," in New York Water

PFAS, short for per- and polyfluoroalkyl substances, are manufacturing chemicals commonly known as "forever chemicals" because they never degrade in the environment. Found everywhere from clothing and electronics to non-stick cookware and personal care products, PFAS compounds have been widely linked to a large range of negative health and environmental outcomes. In 2025, New York passed a law making the sale of apparel with intentionally added PFAS illegal in New York.[47] Further regulations could be passed in other product categories. Several states have enacted innovative PFAS regulations, including California and Colorado. Maine is currently working towards an ambitious ban on all consumer goods containing PFAS by 2032, with some exceptions for essential products. Local governments can pass ordinances and regulations targeting PFAS that meet or exceed state regulations. Examples include:

[47] N.Y. Environmental Conservation Law, § 37-0121 ("Prohibition Against the Use of Perfluoroalkyl and Polyfluoroalkyl Substances in Apparel and Outdoor Apparel for Severe Wet Conditions), *available at:* https://dec.ny.gov/environmental-protection/help-for-businesses/pfas-in-apparel-law

- Thurston, NY Sewage Sludge Disposal Law (2023): Aims to close gaps in existing State and Local laws, regulations, and Town ordinances governing sewage sludge disposal so that residents may realize their fundamental rights under the Green Amendment to clean air, clean water, and a healthful environment. Seeks to ensure that the health and safety of residents are protected, taking into account the unique topology, cumulative pollution burdens, and the vulnerabilities of persons who live, work, and recreate in Thurston.
- Cedar Rapids, IA Wastewater Facilities Ordinance (2020): Amends municipal code to ban discharges into the sewage system which exceed accepted PFAS levels and provides additional definitions and local limits requirements for toxic waste.
- Fort Worth, TX Ordinance No. 26888-04-2024 (2024): Prohibits PFAS discharges into the city's village creek wastewater treatment facility and requires industries to reduce PFAS concentrations to 25 parts per trillion (ppt) in their wastewater within one year of detection of PFAS compounds.

Ensuring Lead-Free Tap Water

Lead is a toxic metal commonly found in drinking water that can be detrimental to human health, even at low exposure levels. An estimated 1 in 5 NYC residents may be drinking tap water transported through lead service lines.[48] Several NYS and local programs are already making strides to address lead contamination, including by way of no-cost or low-cost replacement programs of private and publicly owned lead service lines across the state. Examples of local ordinances to reduce lead in tap water include:

- Newark, NJ Mandatory Lead Service Line Replacement Ordinance (2019): Prohibits the existence of lead service lines and authorizes water utility companies to replace all public and private lead pipes. Required all property owners to opt into the no-cost replacement program or replace any lead service lines themselves within 90 days. Resulted in the replacement of 20,000 lead service lines in just two years.
- New York City No Cost Replacement Program (Proposed 2024): Local Law to amend the administrative code of the New York City in relation to the replacement of lead water service lines. Would require property owners to

[48] *See* NEW YORK CITY COALITION TO END LEAD POISONING, NO EXCUSES, NYC: REPLACE LEAD DRINKING WATER PIPES NOW (2023).

replace lead water service lines and obtain a certification stating that the property does not have a lead service line within 10 years. Owners who make up to 50% of the Area Median Income would be eligible for financial assistance from the Department of Environmental Protection (DEP).
- Eau Claire, Wisconsin Lead Free Ordinance (2020): Established a city-wide goal of becoming lead-free within a decade. Requires replacement of any lead service lines and provides financial assistance for all lead replacement projects.

Wetland, Riparian Habitat, and Stream Buffer Protection Ordinances

The restoration of wetlands and riparian zones is crucial for healthy aquatic ecosystems and improved water quality. Local ordinances can aid communities in the protection and restoration of wetlands and riparian ecosystems through changes to existing regulation. Examples include:

- Atlanta, GA Municipal Code Chapter 74, Article VII (2024): Mandates robust riparian and wetland buffer zones and protections.
- Hanover Township, PA Ordinance No. 601 (2010): Establishes regulations for stormwater management. Sets mandatory vegetation buffers and protections within the buffer zone. Requires riparian easements to be recorded, run with the land, and have a minimal ecological impact.
- Greenwich, CT Regulations for Riparian Buffers (Proposed 2025): Drafting riparian buffer regulations to address pollution and flooding in Long Island Sound.
- Model Ordinances for Regulating Wetlands; Riparian Habitats; Stream Buffers: A collection of model ordinances discussed by the Association of State Wetland Managers.

Stormwater Management Ordinances

Local governments can help prevent toxic pollutants by controlling runoff from rain and snow through storm water pollution prevention plans, rainwater harvesting initiatives, and green infrastructure. Examples include:

- New York City Staten Island Bluebelt Program (Est. 1990): Uses natural systems and ecological methods to manage stormwater, control flooding, and improve water quality across Staten Island, Queens, and the Bronx.

- Madison, WI Updated Stormwater Design Standards (2020): Revised Stormwater Ordinance to accommodate frequent extreme weather events. Aims to reduce sewage overflows and protect local rivers, among other goals.
- Hutto, TX Stormwater Pollution Prevention Regulations (2024): Bans illegal discharges into the local storm sewers and establishes inspection protocols for construction sites and industrial facilities.

Erosion and Sediment Control Ordinances

By passing ordinances to prevent sediment runoff from construction or agricultural sites, local governments can help prevent toxins from reaching bodies of water. Local ordinances can require developers to attain erosion control permits before proposed construction, mandate replanting after a land disturbance, or require construction sites to take measures to prevent erosion. Examples include:

- Poughkeepsie, NY Local Erosion and Sediment Control Ordinance (2019): Establishes regulations for sediment and erosion control and enforces fines for noncompliance.
- Garden City, ID Construction Site Erosion Control Ordinance (2015): Requires erosion control plans for all construction sites, mandates permits and training, and includes enforcement mechanisms for violations.
- Farmington, MN Erosion and Sediment Control Standards (2008): Requires property owners and contractors to prevent erosion and harmful sediment impacts and allows for stop-work orders for noncompliance.

Fertilizer Ordinances

Local governments can pass ordinances to regulate and limit the runoff of nitrogen and phosphorus from fertilizers, which can degrade local water quality and cause algal blooms. Some local governments place bans on fertilizer application during rainy seasons, ban fertilizer use near bodies of water, or have passed ordinances to improve education for homeowners on lawn care and proper fertilizer application. Examples include:

- Ann Arbor, MI Manufactured Fertilizer Ordinance (2007): Regulates the use and application of manufactured fertilizer. Prohibits fertilizers containing phosphorus unless a soil test from the last three years indicates levels less

than 10ppm. Allows newly seeded lawns to use phosphorus-containing fertilizer only during the first growing stage.

- Tampa, FL Fertilizer Ordinance (2012): Regulates the use and sale of fertilizer containing nitrogen and phosphorus. Bans lawn or landscape fertilizer from June 1 to September 30.
- South Portland, ME Landcare Management Ordinance (2016): Restricts synthetic fertilizer and pesticide use on public and private properties and incentivizes organic lawn care methods, to be overseen by an advisory committee.

Industrial Wastewater Ordinances

Local governments can protect resident's access to clean water by passing ordinances controlling what industries and businesses can discharge into sewage systems. Ordinances can do this by limiting discharge of heavy metals, oils, or chemicals; requiring regular testing for industrial sites; establishing penalties for violation of local regulations; and requiring restitution for damages. Examples include:

- Sanford, FL Wastewater Pretreatment Program: Regulates wastewater pretreatment to protect the St. Johns river and protect local workers. Regulates industrial users and manufacturers and requires formal permitting, reporting, and inspections.
- Superior, WI Local Limits and Surcharge Ordinance (2024): Updated local sewer use ordinance to increase limits on local pollutants. Establishes daily maximum limits for certain pollutants.

Daylighting Rivers and Streams

Daylighting is the process of uncovering and restoring a river or stream that has been buried, usually under concrete or pavement, so that it can once again flow above ground in a natural state. It leads to various environmental and social benefits, including improved water quality, reduced flooding, restored wildlife habitat, and greater efficiency in water treatment processes.

There are several local and regional initiatives encouraging or supporting the daylighting process. Internationally, the city of Zurich, Switzerland has implemented an ambitious stream daylighting program, significantly reducing wastewater treatment costs and relieving demand on sewers. Examples of ordinances for daylighting rivers are listed below:

- Seattle, WA Initiative 78 ("Save Our Creeks") (2002): Includes a daylighting provision and establishes the city's long-term plan to restore and daylight creeks.
- Elm Grove, WI Underwood Creek Daylighting Project (2024): Village Board approved referendum to daylight Underwood Creek.
- Saw Mill River Daylighting
- Additional Case Studies

Climate Change

Local communities are already experiencing the effects of climate change—heatwaves, floods, wildfires, storms, and droughts are increasing in frequency and intensity around the world. Local governments can help prepare for, and reduce the impacts of, these risks by passing ordinances to improve planning, infrastructure, and emergency response preparation. By passing more robust climate policies than their state or federal counterparts, local governments can demonstrate that stronger climate policy is possible, practical, and beneficial.

Ways that local governments in New York can protect residents' right to a stable climate include:

100% Clean Energy Mandates

There are currently 24 states with 100% clean energy targets.[49] Hawai'I became the first state to mandate 100% clean energy for its electrical utilities by 2045.[50] Rhode Island has an ambitious timeline for 100% clean energy requirement, planning for full transition by 2033.[51] New York aims for 70% renewable electricity by 2030 and a zero-emissions grid by 2040.[52] Local governments can pass ordinances that align with or exceed state targets, improving the sustainability of their communities while partaking in a broader movement.

[49] Table of 100% Clean Energy States, Clean Energy States Alliance (last accessed Sep. 9, 2025). Available at: https://www.cesa.org/projects/100-clean-energy-collaborative/guide/table-of-100-clean-energy-states/
[50] H.B. No. 623, A Bill for an Act Relating to Renewable Standards, HOUSE OF REPRESENTATIVES, 28th Legislature, State of Hawai'i (2015) https://www.capitol.hawaii.gov/sessions/session2015/bills/HB623_CD1_.pdf
[51] Jennifer McDermott, *Rhode Island Sets Ambitious Target for 100% Renewable Energy,* ASSOCIATED PRESS (Jun. 29, 2022). https://apnews.com/article/politics-legislature-providence-state-6b77f98faa5e1023d1891b91771fd4b0
[52] Renewable Energy, NYSERDA (last accessed Sep. 9, 2025). Available at: https://www.nyserda.ny.gov/Impact-Renewable-Energy

Local Climate Action Plans (CAPs)

Local governments have passed their own policy frameworks that meet or exceed their state climate policies. These are often established by ordinance and include emissions reductions targets, strategies, and enforcement mechanisms. Examples include:

- Charlottesville, VA CAP (2023): Amended the city's comprehensive plan to establish an emission reduction target of 45% by 2030 and to achieve carbon neutrality by 2050. Progress is reported annually.
- Houston, TX CAP (2020): Sets a goal of achieving carbon neutrality by 2050 with changes to transportation, energy, buildings, and waste policies.
- Chicago, IL CAP (2008): Set a goal of achieving 80% emissions reduction by 2050 through action addressing energy, transportation, and adaptation.

Environmental Justice Ordinances

Marginalized communities are often the most exposed to climate risks and face the greatest threats from climate change. Local governments can protect vulnerable neighborhoods and residents by passing environmental justice ordinances that target communities historically burdened by pollution or at the greatest risks of climate impacts. These include prioritizing funding for resilience projects in low-income areas, mandating equity assessments for new developments, passing renters protection ordinances for climate emergencies, and requiring public participation. Examples include:

- Cincinnati Environmental Justice Ordinance (2009): First environmental justice ordinance in the nation. Aims to prevent pollution from disproportionately harming poor and minority residents.
- Newark, NJ Environmental Justice and Cumulative Impacts Ordinance (2016): Aims to address environmental injustice and health disparities in Newark's poorest communities by requiring developers to undergo more stringent environmental review processes and increase transparency about environmental impacts.
- Washington D.C. Environmental Justice Amendment Act (2023): Seeks to provide a mechanism to regulate projects of all sizes that create hazardous waste in neighborhoods already experiencing significant

environmental pollution. Would require the D.C. government to consider the cumulative impacts of a project when granting or renewing permits and licenses and would create a mechanism to deny permits and licenses where a project will disproportionately burden communities subject to a disproportionately high level of environmental and public health stressors.

Emergency Preparedness and Support Ordinances

Local governments can help mitigate the impacts of climate change by anticipating climate-related disasters and passing ordinances to ensure communities are equipped to respond. These include establishing comprehensive hazard mitigation plans, designating local centers for disaster relief, coordination, and sheltering, passing ordinances to improve emergency communication systems, and engaging in mandatory evacuation planning for high-risk zones. Examples include:

- San Carlos, CA Disaster Council & Emergency Services Structure Ordinance (2025): Establishes a "Disaster Council" tasked with creating emergency plans and regulations, a designated Director of Emergency Services, and clear rules for emergency leadership.
- Jordan, MN Emergency Management Plan (2001): Allows the city council the authority to adopt, amend, or repeal any emergency preparedness plan by resolution to allow for a flexible governance approach in emergencies.

Heat Resilience and Urban Cooling Ordinances

Local governments can address heat risks and mitigate the urban heat effect by passing ordinances intended to keep residents cool. These include tree canopy ordinances requiring a minimum amount of tree coverage, cool roof and reflective pavement ordinances, mandating the development of cooling centers, and establishing emergency response plans for heat waves. Examples include:

- Phoenix, AZ Outdoor Worker Heat Protection Ordinance (2024): Requires employers to provide shade, water, rest, air conditioning, and heat-illness training to outdoor workers.

Green Roof Policies

Green roof policies (allowing and encouraging home or building owners to create gardens or other green growth on their roofs) are an effective strategy to reduce urban heat, manage stormwater, and improve energy efficiency. Multiple U.S. cities have adopted policies to encourage or require them.

- San Francisco, CA Better Roofs Ordinance (2017): First major city to require green roofs or solar panels on new buildings. Requires either rooftop vegetarian or solar panels to cover `15-30% of roof space.
- Philadelphia, PA Green Roof Tax Credit Program (2016): Offers tax credits for property owners installing qualifying green roofs.
- Policy Resource Guide: Outlines a variety of proven policy tools that municipalities in the U.S. and Canada have used to promote green infrastructure, especially green roofs and walls. It covers funding mechanisms like grants, rebates, and tax credits, as well as regulatory approaches such as mandates, density bonuses, and stormwater fee credits.

Microgrid Ordinances

Microgrid ordinances (supporting small, local energy systems such as those powered by solar panels, wind turbines, or combined heat and power generators) can help municipalities improve energy resilience by ensuring that clean, stable energy is available in the case of power outages. These ordinances can regulate energy storage systems, mandate back-up generators for critical infrastructure like hospitals and schools, and incentivize energy installations that reduce reliance on grid systems.

In 2025, Oregon passed two bills establishing the first regulatory framework for microgrids in the nation.[53] Oregon's legislation enables local governments to designate "microgrid zones" in critical areas and support the development of

[53] Sarah Sayles and Ken Pearson, Oregon's Microgrid Legislation and Its Impact on National Clean Energy Strategy, Real Clear Energy (Aug. 26, 2025).

community and private microgrids across the state. Colorado and West Virginia have also passed state legislation improving microgrids in rural or high-risk areas.

- Brooklyn, NY Microgrid Project (2016): Allows neighborhoods to establish energy trading systems for solar and battery storage. Not a formal microgrid zone under local law, but provides an example of a model for self-sustainable community grids.
- Portland, OR Microgrid Projects (2025): Since Oregon passed its statewide microgrid legislation, Portland has focused on creating microgrid zones in vulnerable areas to increase energy resilience during wildfires and heatwaves.

Healthy Soil and Biodiversity

Healthy soil and biodiversity are critical to resilient, livable, and sustainable communities. By passing local ordinances to protect biodiversity and improve soil quality, local governments can ensure that ecosystems are better able to recover from disturbances (such as storms, fires, or pollution), prevent soil erosion, and support local farms and resilient food systems. Such ordinances also help support pollinator populations and reduce land degradation by protecting green spaces and tree cover. Likewise, they are positive steps toward protection and propagation of native species, as well as the parks and landscapes that residents value– which is shown to improve mental and physical health.

Ways that local governments in New York can protect biodiversity and soil quality include:

Urban Biodiversity Policies

Cities are adopting biodiversity strategies that protect native ecosystems and ensure equitable access to nature. These policies often intersect with public health, urban planning, and climate resilience. Examples include:

- New York City "MillionTreesNYC" (2007) & Urban Wildlife Protection (2015): MillionTreesNYC initiative planted over one million trees to restore

biodiversity and the urban canopy. Urban Wildlife Refuge Project protects local habitats and coexistence with wildlife.

- San Francisco Biodiversity Policy Resolution (2017): Robust biodiversity policy that aims to restore native habitats, create green corridors, and emphasizes the cultivation of urban forests. Seeks equitable access to nature and boost resilience for residents.
- Toronto Biodiversity Strategy (2019): Sets out 23 actions to protect habitats, restore degraded natural areas (largely those influencing water, soil, and ecosystem health), and raise awareness for biodiversity and its importance.

Wildlife and Ecosystem Protection Ordinances

Local governments can protect local wildlife and ecosystems by using land regulation to protect biodiversity. Local governments can pass ordinances restricting development in wildlife corridors or vulnerable ecosystems, prohibiting fencing that blocks natural movement or migrations, limiting light pollution that disrupts nocturnal species, reducing noise pollution that affects sensitive species, and more.

Native Landscaping and Plant Protection Ordinances

Municipal codes can be updated to promote native plant use and tree protection as essential tools for maintaining biodiversity and soil health. Local governments can encourage the use of native plants and ban or discourage the use of invasive species. Examples include:

- Missouri Prairie Foundation Native Plant Model Ordinance (2013): Encourages the use of native plants as an alternative in urban landscaping. Though some of the language in the ordinance is specific to Missouri, the ordinance is easily modifiable to fit any state.
- Seattle, WA Tree Protection Ordinance (2023): Balances the need for tree protection with housing production. Places limits on the quantity, size and type of trees that can be removed from private property. Unlawful removal of a tree may result in large fines, though some exemptions for tree removal do exist in specific circumstances.

Pollinator Protection Ordinances

Local governments can pass ordinances to protect bees, butterflies, bats, and other pollinators essential for maintaining biodiversity. These can include limiting

or banning harmful pesticides, mandating or incentivizing pollinator-friendly plants in public spaces, or creating "pollinator pathways" or local gardens specifically for pollinators. Examples include:

- Minneapolis, MN Pollinator Friendly Resolution (2015): Promotes pollinator-friendly landscaping in public places and private developments and incentivizes protection of native species.
- Boulder, CO Pollinator-Friendly Community Program: Restricts pesticide use and encourages creation of pollinator habitats. Supports beekeeper and pollinator education programs.

Sustainable Agriculture Ordinances

Local governments can incentivize regenerative agriculture practices and prevent practices that threaten or harm biodiversity. Local ordinances can incentivize soil building practices such as crop rotation or cover crops, establish easements for ecological farming, and support the diversification of crops. They can offer rebates for beneficial practices such as native planting, composting, and installing pollinator gardens. Examples include:

- Austin, TX Urban Farm & Garden Ordinance (2013): Supports small-scale urban farming, beekeeping, and keeping of small livestock within city limits.
- San Francisco Urban Agriculture Policy (2012): Integrates urban agriculture into city planning for food security and environmental protection. Encourages urban farms and gardens and incentivizes organic methods.

Zoning

Zoning decisions have a disparate impact on the environment, public health, equality, and sustainability. This is because they directly impact how land is used. Environmentally friendly zoning can prevent the destruction of forests, wetlands, and green spaces by limiting development in critical areas. Likewise, it can help mitigate climate change by promoting green buildings, renewable energy use, community gardens, bike paths, and walkable neighborhoods. Smart zoning

can also help communities adapt to climate change by reducing flood risks and heat islands. Zoning, for instance, can help manage storm water by requiring permeable pavements and tree planting. It can also protect public health by separating harmful industrial activities from homes and schools, as well as promoting environmental justice by reducing exposure to air and water pollution. By passing environmentally friendly, place-based zoning ordinances, local governments can grant residents more control over how their land is developed, ensure that development reflects local values and protects cultural, spiritual, and historical sites, and promote equal access to healthy environments.

Examples of environmentally friendly zoning ordinances include:

Green Infrastructure Zoning

Local governments have also taken to 'zoning green' to combat federal environmental setbacks, mitigate the negative health effects of toxic industries located in residential communities, and address climate risks at a local level. Green infrastructure zoning can be proactive by encouraging trees, permeable surfaces, or green spaces in new developments, or it can be retroactive by focusing on retrofitting existing infrastructure. Examples include:

- New York Green Zoning Resolution (2012): New York City passed a Zoning Green resolution in 2012 to improve the city's energy efficiency, reduce carbon emissions, and more. The proposal was largely focused on improving the energy efficiency of existing buildings and set guidelines that lead to sustainable building for the future.
- LA Clean Up Green Up Initiative (2016): Ordinances aim to improve environmental justice through progressive land use policies focused on community engagement. The program surveys potential environmental hazards, such as health risks associated with pollution, in LA neighborhoods. It then partners with community groups to improve city regulations in a way that addresses these hazards.

Eliminating or Reducing Zoning for Single Family Homes

Many states have begun to eliminate or restrict zoning for single-family housing because of the resulting negative societal and environmental impacts. City Councils in several states have also voted to reduce single-family zoning as a

way to combat dual environmental and housing crises. For more states and cities eliminating or decreasing single family zoning, see here.

- Oregon House Bill 2001 (2019): Prohibits single family zoning in towns that surpass a certain population to meet housing needs with an environmentally just approach. Also aims to restrict property use in a way that adapts to increased climate risks from earthquakes, floods and other disasters.
- New York City Zoning for Housing Opportunity Policy (2024): Aims to boost housing development by adjusting height, density, parking requirements, and permitting apartments on formerly single-family lots. This policy has the potential to create over 82,000 new homes over 15 years.
- Minneapolis, MN 2040 Comprehensive Housing Plan: Multi-decade plan to increase multi-use housing. The program is meant to curb racial segregation and negative environmental impacts of single family zoning.

Land Use Zoning to Reduce Air Pollution

Clean air zoning ordinances seek to manage air pollution through zoning laws. Such ordinances can improve public health by requiring air quality impact assessments for new developments, restricting siting of new industrial facilities near vulnerable communities, or requiring buffer zones between residential areas and sources of pollution. Examples of clean air zoning ordinances include:

- Portland, OR Clean Air Zoning Updates (2023): Primarily focused on implementing zoning reforms at the intersection of environmental protection and air quality.
- Chicago Air Quality Zoning Ordinance (2021): Integrates air quality standards and decisions directly into zoning. Adds new environmental review requirements for any site plan submitted for construction or expansion of industrial facilities that cause or contribute to air pollution.

Solar Zoning

Zoning ordinances that accommodate or promote rooftop solar can dramatically improve adoption rates. As solar energy adoption grows across the country, local governments play a critical role in enabling or hindering that growth through their zoning and land use regulations.

The best-practice guide below helps local governments structure such ordinances. This resource offers guidance for developing local solar zoning ordinances, with a focus on accessory use solar installations (such as rooftop panels on homes and businesses).

- Best Practice Guidance for Solar and Zoning

Zoning for Climate Risk Reduction

Climate risk reduction zoning plans guide development away from vulnerable, high-risk areas. Local governments can identify high-risk zones and require additional reviews or restrictions for development in these areas. They can establish managed retreat policies to discourage residents from rebuilding in areas at risk of repeated damage, and they can pass policies to shift development away from vulnerable areas more generally.

- Guide to Climate-Informed Zoning

Environmental Rights Councils

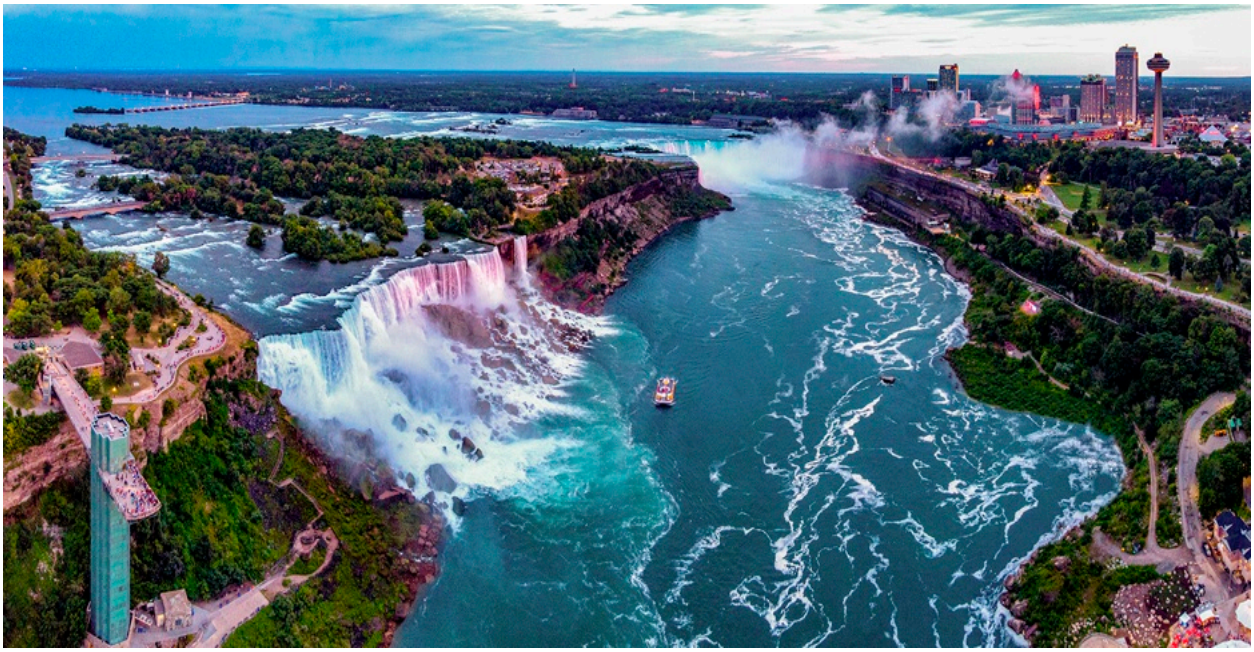
Local Environmental Rights Councils give communities a direct voice in protecting their environments. Environmental Rights Councils help ensure that local voices—especially from communities who are often left out of environmental policy discissions—are represented in decisions that affect land, water, air, and public health, and that these decisions are made with accountability and justice. Councils are well-suited to identify and address environmental risks before they cause harm, and often advocate for clean air, safe water, and healthy neighborhoods. They protect marginalized communities that are disproportionately affected by pollution or zoning, and can help stop harmful projects that would otherwise be placed in vulnerable areas. Environmental Rights Councils can hold governments and developers accountable for harm and ensure more transparency, better regulation, and stronger enforcement of environmental rights in the future– while building a culture of environmental stewardship and collective responsibility.

Examples of Environmental Rights Councils include:

- Michigan Advisory Council on Environmental Justice (Est. 2020): The Council, which includes representation of Tribal Nations, frontline activists, academics, advocacy organizations, local governments, business and industry, labor, and public health, acts as an advisory body within the Michigan Department of Environment, Great Lakes, and Energy. The advocates for the relief of frontline communities while supporting long-term and sustainable Environmental Justice solutions.

- Chicago Environmental Justice Advisory Board (Est. 2025): The Environmental Justice Advisory Board is a key part of the Hazel Johnson Cumulative Impacts Ordinance (2025), which aims to address environmental injustice in Chicago communities. The Advisory Board involves diverse leadership, including members of communities historically impacted by pollution and representatives of the public health, nonprofit, and business sectors. The board is responsible for reviewing and advising on relevant City materials and cumulative impact studies.

- Environmental Council of the States (ECOS) (Est. 1993): ECOS is a national, nonprofit, nonpartisan association of state and territorial environmental agency leaders. Its core mission is to enhance the capacity of these agencies and their leaders to protect and improve human health and the environment across the United States. ECOS aims to ensure that local perspectives shape national environmental policy. While it establishes a model that could be replicated and applied to local governments as well.



Niagara Falls,NY Aerial Panoramic. Image courtesy of Invest Buffalo

Part 2 – Innovative and Transformative: International Ordinances for Systemic Change

New Yorkers might also look to innovative and transformative international ordinances that have challenged the status quo of environmental regulation. These programs have addressed clean air, clean water, climate, healthy soil and biodiversity, and/or environmental rights councils with varying degrees of success.

CLEAN AIR

Car Reduction Programs

Cities have reduced or eliminated parking to discourage car use and reclaim public space for pedestrians and greenery. Urban spaces liberated from parking requirements have been transformed into green areas, improved lighting, and featured both public art and public infrastructure such as toilets, fountains, and furniture. Applied to New York, a car-reduction program could bring economic benefits to local businesses and environmental, recreational, and health benefits to residents. Other cities have piloted such programs internationally.

- Oslo Car Reduction Program (2016): Oslo's car reduction program involves removing city parking spaces to discourage driving, while still allowing exceptions for individuals with disabilities and essential services and deliveries.
- Addis Ababa Menged Le Sew (2018): Organized car-free days involving closing city streets to cars and opening them to the public on a regular basis. On these days, which occur on a weekly or monthly basis depending on the street, residents participate in cycling, sports, music, and art.

- Barcelona "Superblock" Program (2015): Restricts traffic within designated urban blocks, discourages car use, and reclaims urban space for residents to enjoy.
- Kigali Car Free Days (2015): Rwanda has established a monthly car free day to encourage residents to walk and bike and help facilitate the transition into a green transport and green city.

CLEAN WATER

Innovative Urban Water Management Programs

- Sweden's Circular (Three Pipe) Sewer System (2013): Oceanhamnen, a Housing development in Helsingborg, Sweden, uses a 3 pipe wastewater system that efficiently collects, separates, and recycles household waste water. By producing biogas and biofertilizer from the collected waste water, the Three Pipe Sewer System (Tre Rör Ut) reduces pollution, limits carbon emissions, and saves water.
- Vancouver Rain City Strategy (2019): Seeking to transform urban water management, Vancouver's Rain City Strategy focuses on the health of local waterbodies, reducing flood risk, and promoting rainwater reuse. It calls for shared responsibility across public and private sectors to manage rainwater close to where it falls, rather than relying solely on public infrastructure. The strategy outlines nine long-term directions and three near-term action plans targeting streets, buildings, and parks, with the goal of managing 90% of annual rainfall and treating runoff from 40% of impervious surfaces by 2050.

SUSTAINABLE DEVELOPMENT

Local Agenda 21 Plans

Local Agenda 21 (LA21) is a key outcome of the 1992 Earth Summit in Rio. It is a non-binding, voluntary action plan for sustainable development at the local level that encourages local communities to work together towards environmental and economic sustainability and calls on local governments to

consult with their populations to establish a unique LA21 plan for their community. Each plan is tailored to the specific needs of the community, but typically includes climate adaptation and resilience plans, protection for biodiversity and greenspaces, sustainable transport and energy policies, affordable housing, water management, environmental education, and community participation.

- Sweden: Over 200 municipalities have implemented LA21 Programs, which focus on public transportation, recycling, eco-municipalities, and community engagement.
- Germany: Hundreds of LA21 Programs, which focus on urban planning and local democracy.
- France: Established the NGO Comité 21 to support the development and implementation of LA21 policies. Focused on local sustainability and urban biodiversity.

Improving Climate Resilience

Cities around the world have developed innovative climate resilience plans specific to each locality and its unique threats. These plans are creative, forward-looking, and intended to protect citizens from the greatest impending threats from climate change.

- "Sponge Cities": Vienna, Berlin, Copenhagen, and other cities have become "sponge cities" and embraced similar concepts for flood risks, such as building infrastructure that captures, stores, and reuses rainwater and water-collecting parks to retain water and cool urban areas.
- Paris Green Spaces: To alleviate the Urban Heat Island effect and heat risk, Paris has created an interlinked network of cool spaces across the city. By lining these spaces with water and vegetation, these areas are typically 2°C to 4°C cooler than normal streets. The city aims to have a cool, green space available by a short walk for all Parisians as summers and heat waves continue to increase heat related illness and death.
- San Vicente, Philippines Ecotown Resilience Model: Established a model for ensuring disaster-resilient livelihoods by planting drought and flood resistant crops, promoting organic farming, promoting coral rehabilitation, and engaging in community forest management.

ECOLOGICAL GOVERNANCE MODELS

Indigenous Governance Models

Indigenous models for ecological stewardship and community-based governance exist all over the world. These governance frameworks often emphasize reciprocity and interrelatedness, and are effectuated through authoritative, place-based, culturally grounded systems. Non-Indigenous communities can learn from Indigenous models and, without appropriating them, develop their own policies based on similar principles. Examples of Indigenous eco-governance models include:

- Australia's Indigenous Protected Areas (IPAs): Managed by aboriginal Australians and Torres Strait Islander custodians, IPAs cover over half of Australia's National Reserve System.
- New Zealand Kaitiatanga & Marine Co-Governance: In New Zealand, Māori concepts inform the management of coastal and marine ecosystems. Indigenous Peoples collaborate with the National government to ensure that ecological principles and cultural values are integrated into habitat management.

Eco-Municipalities

Eco-municipalities adopt systemic sustainability frameworks across all levels of municipal governance. These municipalities often have goals of reducing fossil fuels, toxic chemicals, pollution, and ecological degradation.

- Sweden: Over 70 Swedish towns have implemented eco-municipality systems.
- Canada: At least two municipalities in British Columbia have adopted Sustainability Strategic Visions focused on systems thinking and community engagement.

Mindfulness Cities

- Bhutan's Climate-Conscious 'Mindfulness City': Inspired by Buddhist spiritual heritage, the Gelephu Mindfulness City (GMC) is a recent undertaking of Bhutan's government. The GMC is an innovative urban development project that forms a Special Administrative Region within

Bhutan. It integrates economic growth with mindfulness, holistic living, and sustainability. Construction is already underway. Sustainability is at the center of the new city's plan. The GMC will maintain 70% green space and is designed to integrate with nature, not interrupt it. It will be powered by 100% renewable energy sources, including hydropower, solar, and geothermal energy.

Ecological Differentiation

- Costa Rica's Sweet City: In 2015, the municipality of Curridabat, a suburb of San José, Costa Rica, launched an innovative urban planning initiative known as the "Sweet City" ("Ciudad Dulce") project. Recognizing the vital role of pollinators in maintaining healthy ecosystems and biodiversity, city leaders began reimagining their urban spaces. In this model, pollinators, trees, and native plants are treated as co-citizens whose needs must be integrated into planning decisions. The project aims to create a city that is hospitable not only to humans, but to all forms of life that support urban ecological health.

ENVIRONMENTAL RIGHTS COUNCILS

Future Generations Guardianship Bodies

Guardianship bodies for future generations – also known as intergenerational guardianship bodies—are institutions or groups created to represent the interests of future generations and ensure their environmental and/or constitutional rights are not violated by current decision making. Such bodies are one way to embed long-term thinking into governance and create more sustainable governance models.

- Future Generations Commissioner (Wales): Established under the Well-being of Future Generations Act of 2015, the Commissioner acts as a guardian for the interests of future generations in Wales. The office monitors government bodies, advises on long-term sustainability, and ensures policies align with well-being and environmental protection goals.

- Ombudsman for Future Generations (Hungary): Established as a constitutional office by the Hungarian Parliament. Tasked with protecting the environmental and constitutional rights of future generations.
- Parliamentary Committee for the Future (Finland): Long term body within Finland's Parliament to conduct research, evaluate sustainability issues, and develop transformative policy ideas to protect the rights of future generations.

Rights of Nature Guardianship Bodies

Rights of Nature guardianship bodies are institutions or groups created to protect the rights and interests of nature and non-human natural entities by acting as their voice in decision making forums. They are tasked with ensuring the interests and/or rights of nature are represented in decisions that will affect their health and survival.

- Yurok Tribe Klamath River Environmental Guardians Program (California): The Yurok Tribe established a guardianship model for protecting and stewarding the Klamath river. The Yurok Tribe appoints River Guardians to monitor the river's health, enforce environmental laws, and advocate for the river's rights and personhood.
- Whanganui River Guardians (New Zealand): The 2017 Te Awa Tupua Act granted the Whanganui River legal personhood. The river is represented by two guardians—one appointed by the Whanganui Māori iwi and one appointed by the national government of New Zealand – who are tasked with jointly managing the river's wellbeing and speaking for it in administrative and legislative forums.
- Atrato River Guardians (Colombia): In 2016, a Constitutional Court ruling granted the Atrato River legal rights and appointed a group of guardians, comprised of local community members, Indigenous Peoples, and government officials, to work together to restore the river and protect it from environmental degradation.

CONCLUSION

The full effectiveness of New York's Green Amendment has yet to be determined—and much of it will come down to the engagement of New Yorkers and their government agencies. Green Amendments are a remarkable tool for transformative change, but their potency depends on the willingness of judges to interpret environmental rights as self-executing and fundamental. This requires continuous and sustained pressure from citizens. Local governments can do their part by passing local legislation to protect and enforce the environmental rights guaranteed to their residents by the Green Amendment, which may enhance or exceed protections granted by the state or federal government. Local governments are best positioned to understand the unique environmental threats facing their residents and the unique environmental needs of their ecosystems. The expansive list of ordinances offered above should help provide a road map for local governments and authorities in New York to better align local governance with the national Green Amendment movement. The list is non-exhaustive, and local governments and community groups can use these examples to create their own place-based and unique innovative and creative solutions, which are needed now more than ever.

Earth Law Center is available to advise local and Tribal governments or authorities on the implementation of ecocentric or rights-based ordinances. For a jurisdiction-specific landscape analysis, assistance with legal drafting, or other services to fund and implement actions aligned with the national Green Amendment movement, please contact Maria Florencia Pérez: mfperez@earthlaw.org.