

Other Environmental Rights in New York Constitution

Citation	Summary
Articles	
Bearing the Torch: A Green New Deal for New York State Agriculture Jack Hornickel 40 Pace Env't L. Rev. 131 (2022)	<p>The Green New Deal is now a common political term, understood to unite the issues of environment, specifically climate change, and labor in one sweeping reform of economy and politics. ... This Article begins in Section II with a historical analysis of the national conditions that preceded the New Deal, as compared to modern conditions. It focuses specifically on the economic and environmental conditions of agriculture, comparing the 1930s and the 2020s, concluding that while the crises of agriculture are not as widespread, they still merit the governmental attention at the scope of a Green New Deal. Based on the proposition that the Green New Deal should hew closely to the actual mechanics of the original New Deal, the Article then proceeds in Section III with a report on New Deal emergency measures that addressed the economic and environmental crises of agriculture. It devotes close attention to the experimental land acquisition and community planning programs from 1933 to 1937, undertaken by administrative agencies until Congress nullified them by legislation.</p> <p>Finally, in Section IV, this Article positions New York State as the torchbearer for a Green New Deal, due to its role in the New Deal and current political mandate on environmental issues. Furthermore, it argues that beginning with legislation enacted in 2019 [Climate Mobilization Act], New York State has already initiated its Green New Deal agenda. In conclusion, this Article argues that any Green New Deal must include an equitable and environmentally beneficial transition for dairy farms; this Article then proposes such a program built upon New Deal policy infrastructure.</p> <p>https://digitalcommons.pace.edu/pelr/vol40/iss1/5/</p>
Protecting Natural Resources – Forever: The Obligations of State Officials to Uphold “Forever” Constitutional Provisions Rachel E. Deming 36 Pace Env't. L. Rev. 202 (2019)	<p>This Article analyzes the attacks on a state constitutional conservation lands program since the election of a governor and state legislature opposed to environmental regulation in 2010 – a precursor to current happenings at the federal level under the Trump administration. Former Florida Governor Rick Scott and his administration have spent an average of over \$40 million a year in taxpayer money to defend and, in most cases, pay judgments, in lawsuits challenging mandates of the Florida Constitution. I examine this issue of ignoring or deliberately violating constitutional requirements through the lens of state constitutional provisions that protect natural resources, focusing on Florida and New York. Both states have explicit and specific protections for conservation and forest lands, which differ from constitutional provisions in other states that establish policies and delegate implementation authority to state legislatures. New York adopted its Forever Wild constitutional provision in 1894, and the text of that provision has remained intact, despite attempts to amend the provision or to pass legislation that would violate it.</p> <p>In Florida, there are two constitutional provisions that protect conservation lands under the Florida Forever program. This program has widespread public support and, at its inception, had non-partisan political support as well, until Rick Scott was elected to be governor. During his tenure, there have been repeated attempts to sell or trade conservation lands protected under the Florida Constitution. Instead of spending taxpayer money to defend violations of these constitutional provisions, Florida state</p>

	<p>officials should up- hold the oaths they made to “support, protect, and defend” the state constitution. Natural resource protections in the Florida and New York constitutions provide noteworthy guidance for other states to initiate constitutional amendments for similar protections. In addition, there should be personal repercussions for state officials who willfully violate these state constitutional commands and restitution of taxpayer money spent to defend unlawful behavior.</p> <p>https://digitalcommons.pace.edu/pelr/vol36/iss2/1</p>
<p>Updating New York’s Constitutional Environmental Rights</p> <p>Nicholas A. Robinson</p> <p>38 Pace L. Rev. 151 (2017)</p>	<p>A task force of the association’s section on environmental and energy law examined the issue for six months and concluded that there is merit in recognizing the right to the environment. This article introduces the emergence of this issue in its historical context.</p> <p>I. Exercising the Constitutional Right to Convene a Convention</p> <p>II. The “Forever Wild” Provisions</p> <p>III. The Constitutional Forest Preserve</p> <p style="padding-left: 20px;">A. Sections 1 and 5 of Article XIV</p> <p style="padding-left: 20px;">B. Section 2</p> <p>IV. Nature Conservation and State Land Sales to Augment the Forest Preserve</p> <p>V. Rights and Duties—Updating the “Conservation Bill of Rights”</p> <p>VI. Antecedents Recognizing Constitutional “Environmental Rights”</p> <p>VII. Amending New York’s Constitution to Establish an Environmental Rights</p> <p>https://doi.org/10.58948/2331-3528.1961</p>
<p>Atkin, Hilary, "Article XIV, Agriculture, and Keeping New York’s Wilderness Wild" (2010). Pace Law School Student Publications. 14.</p>	<p>When the constitutional convention question is put on the ballot in 2017, the voters of New York will again choose whether to have a convention to revise or replace their Constitution. There are many issues related to the Forest Preserves of New York State that may lead delegates to consider whether Article XIV, Section one’s “forever wild” provision should be amended or even done away with. With the popularity of the local farming movement increasing the intensity of agriculture in and around the Adirondack and Catskill Parks, delegates could consider amendments that clarify the responsibilities that Article XIV currently demands of state and local agencies regarding protecting the Forest Preserves. The importance of the health of the Forest Preserve for drinking water quality and quantity is clearly articulated in Article XIV and its legislative history, and agricultural practices can have a major impact on water resources. However, if the goal is to ensure the wild nature of the Forest Preserve, legislative measures may be the best avenue. Such legislation should require that agencies adopt measures and policies that mandate and encourage farming practices in and around the blue lines to assure the future integrity of the Forest Preserve and the future viability of agriculture in the Adirondacks and Catskills.</p> <p>https://digitalcommons.pace.edu/lawstudents/14</p>
<p>Wildlife Management and the Forest Preserve</p>	<p>The forever wild language of article XIV of the New York constitution has sparked debate and controversy ever since its enactment. This paper examines how the Forest Preserves affect wildlife contained within the “wild forest lands” protected under</p>

<p>Jeffrey Auger Pace Law School Student Publications # 13 (2010)</p>	<p>article XIV. Through examining the history of the article’s adoption it becomes clear that wildlife concerns were a chief motivating factor in preserving these forests. The paper then examines how wildlife is managed in New York, and discusses certain practices which may have implications on the “forever wild” designation. The economic and social benefits of hunting, fishing, and hiking for New York are then examined and it is argued that by increasing their support base the State can further ensure the conservation ideals enacted through the original promulgation of the Forest Preserve will continue to last for another hundred years.</p> <p>https://digitalcommons.pace.edu/lawstudents/13</p>
<p>Legislative History and Current Bills Related to the Constitution Convention</p> <p>Michael Friese</p> <p>Pace Law School Student Publications #10 (2010)</p>	<p>The purpose of this paper is to critically look at the legislative history of Article XIV, formerly Article VII. Specifically, I will discuss the events leading up to the 1894 Constitutional Convention (the convention were Article XIV and the “Forever Wild Provision” was adopted), the 1894 Constitutional Convention, the events and legislative acts in between the 1894 and 1915 constitutional conventions, the 1915 Constitutional Convention, the events and legislative acts occurring between 1915 and 1938, the 1938 Constitutional Convention, and finally I will address the delegate election process as well as the proposed reforms to the process. It is the intention of this paper to present the historical and present importance of the Forest Preserve, as well as the importance of the delegate electoral process to the outcome of the constitutional convention.</p> <p>https://digitalcommons.pace.edu/lawstudents/10</p>
<p>Historic Preservation and the Wilderness</p> <p>Seth Kagan</p> <p>Pace Law School Student Publications # 8 (2010)</p>	<p>This paper will discuss the competing interests between the “forever wild” provision and that of historic preservation. In examining the history of legislative, administrative, and judicial action, it is clear that a picture emerges in favor of historic preservation alongside the interest of keeping the parks “forever wild.” In looking towards the future, for the preservation of both interests, it is important to determine what the state of each of the interests is in regard to one another. If there is to be a constitutional convention, would Article XIV have to change in order to accommodate further preservation of historic sites within the park? Or could it be left as it currently stands? Or should it be changed completely and reassessed in order to accommodate historic preservation along with other contemporary interests?</p> <p>https://digitalcommons.pace.edu/lawstudents/8</p>
<p>A Trusting Public: How the Public Trust Doctrine Can Save the New York Forest Preserve</p> <p>Katherine R. Leisch</p> <p>Pace Law School Student Publications # 7 (2010)</p>	<p>Article XIV ensures the protection of this wilderness in perpetuity, in effect solidifying the forest preserve as a part of the public trust. Furthermore, the public trust is something that predates the States in a way that makes it virtually indestructible. Therefore, Article XIV serves as a limitation on government in order to protect the forest preserve through the safeguards of the public trust. No branch of government, nor constitutional convention can destroy the public trust, including the Forest Preserve.</p> <p>https://digitalcommons.pace.edu/lawstudents/7</p>
<p>History of New York State’s “Forever Wild” Forest Preserve and</p>	<p>This paper traces the history of Article XIV’s interpretation by the Courts, Attorney Generals, and the environmental agency charged with its enforcement in an effort to guide future interpretation consistent with the Constitution’s mandate.</p>

<p>the Agencies Charged with Carrying out Article XIV's Mandate</p> <p>Jessica B. Silver</p> <p>Pace Law School Student Publications # 5 (2010)</p>	<p>This paper also makes suggestions for the enhancement of Article XIV at the next Constitutional Convention, which will either be held in 2017, as required by the Constitution, or in the next few years, if the Legislature follows the recommendation of the Governor-Elect, Andrew Cuomo.</p> <p>https://digitalcommons.pace.edu/lawstudents/5</p>
<p>Being Green Doesn't Need To Be Taxing: How New York State Law Is a Vanguard For Using Green Infrastructure,</p> <p>Keith J. Jones</p> <p>29 Pace L. Rev. 499 (2009)</p>	<p>On June 23, 2008, New York State once again became a legislative and environmental leader. On that day, the New York State Legislature passed a bill that would create a substantial tax abatement for the installation of green roofs in New York City.1 Subsequently, in August 2008, Governor David Paterson signed the bill into law. By doing so, New York became the first state in the nation to enact a major tax incentive program to promote the use of a specific form of green infrastructure. It is hoped that this is just the first serious step down a new greener path. Ideally, other state and local jurisdictions will once again follow New York's lead. New York City has long been known as a trend setter in everything from fashion to immigration, but people sometimes overlook New York State's role in establishing legal and legislative precedents. With this new law, New York moves to the forefront of governments working to advance sustainability and prudent environmental stewardship by way of decisive economic policy and actual tax law.</p> <p>https://doi.org/10.58948/2331-3528.1059</p>
<p>"Forever Wild": New York's Constitutional Mandates to Enhance the Forest Preserve</p> <p>Nicholas A. Robinson</p> <p>Arthur M. Crocker Lecture, Feb. 15, 2007</p>	<p>Preface: Personal Reflections: These lectures, honoring Louis Marshall (1873-1929) and his legacy, acknowledge the profound and historical debt that all New Yorkers owe to this extraordinary lawyer. It is a privilege to be participating in this event. The occasion is especially welcome for me personally. I thank Peter Brinkley and David Gibson, for the invitation to share with you my reflections about Article XVI, the "forever wild" constitutional provision that Louis Marshall espoused. I happily was allied in conservation efforts with the person who inspired this lecture series, Arthur M. Crocker. I first participated with Arthur in the 1970s, in efforts to enact New York's tidal wetlands act, far from the Adirondacks. It is an honor to be a part of a continuing lectureship established in Arthur's honor. Arthur was devoted to the Adirondacks and to stewardship of the environment of New York.</p> <p>http://digitalcommons.pace.edu/lawfaculty/284/.</p>