

ORDINANCE NO. 2674

AN ORDINANCE TO AMEND CHAPTER XXII (HEALTH) OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF LYNDHURST SO AS TO ESTABLISH A PRECAUTIONARY PRINCIPLE POLICY.

BE IT ORDAINED by the Board of Commissioners of the Township of Lyndhurst, County of Bergen, New Jersey, as follows:

SECTION 1. Chapter XXII, “Health,” is hereby amended to establish a Precautionary Principle policy as follows:

22-8 PRECAUTIONARY PRINCIPLE POLICY.

22.8.1 DECLARATION OF POLICY

The following Precautionary Principle shall be established as the policy of the Township of Lyndhurst: “When an activity raises threats of harm to human health, or the environment precautionary measures should be taken even if some cause and effect relationships are not fully established scientifically.” (Wingspread Statement, 1998)

22-8.2 IMPLEMENTATION OF POLICY

The following shall constitute The Township of Lyndhurst’s Precautionary Principle policy. All officers, employees, boards, commissions, departments, and agencies of the Township of Lyndhurst shall implement the Precautionary Principle in conducting the Township’s affairs:

- a. *Utilization of Precautionary Principle.* The Township of Lyndhurst will utilize the Precautionary Principle to develop laws for a healthier environment. By doing so, the Township will create and maintain a healthy, viable environment for current and future generations, and will become a model of sustainability. The Precautionary Principle is intended as a tool and philosophy to promote environmentally healthy alternatives while removing the negative and often unintended consequences of new technologies.
- b. *Decision Making.* The Township of Lyndhurst will strive to make decisions based on the least environmentally harmful alternatives in order to provide every resident with an equal right to a healthy and safe environment. This requires that our air, water, soil, and food be of a sufficiently high standard that we can live healthy lives. The precautionary approach to decision-making will help Lyndhurst move beyond fixing environmental ills to preventing the ills before they can do harm.

c. *Analysis of Alternatives.*

- (1) A thorough analysis of a wide range of alternatives will be explored in order to present the public with different effects of different options considering short-term versus long-term effects or costs, and evaluating and comparing the adverse or potentially adverse effects of each option, noting options with fewer potential hazards.
- (2) Using the best available science, the Precautionary Principle requires the selection of the alternative that presents the least potential threat to human health and the Township's natural resources. Fundamental questions to be asked include: "Is this potentially hazardous activity necessary?"; "What less hazardous options are available?"; and "How much harm can we avoid?"

d. *Protective Action.*

- (1) By using the Precautionary Principle, the burden of proof will be shifted from the public to the proponent of a technology. Where threats of serious or irreversible damage to people or nature exist, lack of full scientific certainty about cause and effect shall not be viewed as sufficient reason for the Township to postpone measures to prevent the degradation of the environment or protect the health of its citizens. Any gaps in scientific data will not prevent protective action being taken by the Township. As new scientific data become available, the Township will review its decisions and make adjustments when warranted.
- (2) When there are reasonable grounds for concern, the precautionary approach to decision-making will seek to reduce harm through:
 - (a) Anticipatory Action: A duty to take anticipatory action to prevent harm. Government, business, and community groups, as well as the public, share this responsibility.
 - (b) Right to Know: The community has a right to know complete and accurate information on potential human health and environmental impacts associated with the selection. The burden to supply this information lies with the proponent, not with the general public.
 - (c) Alternatives Assessment: An obligation exists to examine alternatives and select the alternative with the least potential impact on human health and the environment, including the alternative of taking no action.
 - (d) Full Cost Accounting: When evaluating potential alternatives, there is a duty to consider all the costs, including raw materials,

manufacturing, transportation, use, cleanup, eventual disposal, and health costs even if such costs are not reflected in the initial price. Short- and long-term time thresholds will be considered when making decisions.

- (e) Transparency: Public participation and an open and transparent decision making process are critical to finding and selecting alternatives.

- e. *Preservation of Environment.* The duty to enhance, protect and preserve the Township's environment rests on the shoulders of government, residents, citizen groups and businesses alike. The Township of Lyndhurst will work towards generating power from renewable sources, recycling waste, and keeping our land and waters free from toxins and pollutants. The Precautionary Principle provides a means for the Township to attain these goals as we develop future laws and policies in such areas as transportation, construction, land use, planning, water, energy, health care, recreation, purchasing, and public expenditure.
- f. *Promotion of General Welfare.* All Township employees and officials are encouraged to take the Precautionary Principle into consideration and evaluate alternatives when taking actions that could impact health and the environment, especially where those actions could pose threats of serious harm or irreversible damage. This ordinance does not impose specific duties upon any Township employee or official to take specific actions. In adopting and undertaking the enforcement of this ordinance, the Township is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury nor may this ordinance provide any basis for any other judicial relief including, but not limited to, a restraining order or injunction.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. If any part, sections, provisions, or the total of any of the above-mentioned publications are held to be invalid or unenforceable in any court, the findings or judgments of which court are applicable in the State of New Jersey, that the balance and remainder of such publication shall remain in full force and effect as an Ordinance of the Township of Lyndhurst.

SECTION 4. This Ordinance shall become effective twenty (20) days after adoption and publication according to law.