



1 THE APPLICANT. IF NO STATE OR LOCAL AGENCY HAS DISCRETIONARY AUTHORITY  
2 OVER THE PROJECT, THE FILING DATE SHALL BE THAT OF THE FILING OF AN  
3 APPLICATION FOR A BUILDING PERMIT, TOGETHER WITH A SURVEY PREPARED BY A  
4 LICENSED SURVEYOR AND PLANS PREPARED BY A LICENSED ENGINEER OR ARCHITECT  
5 IN WHICH CASE NO ENVIRONMENTAL DOCUMENTATION NEED BE FILED IN ORDER FOR  
6 THIS SECTION TO APPLY. WRITTEN NOTICE OF SUCH APPLICATION, EXCEPT IN  
7 THE CASE OF A ONE-FAMILY DWELLING, SHALL BE GIVEN BY THE APPLICANT TO  
8 ALL PROPERTY OWNERS WITHIN A DISTANCE OF TWO HUNDRED FIFTY FEET OF THE  
9 APPLICANT'S PROPERTY LINES BY FIRST CLASS MAIL TO THE LAST KNOWN ADDRESS  
10 ON THE TAX RECORDS. THE APPLICANT SHALL FILE AN AFFIDAVIT WITH THE MUNI-  
11 CIPALITY OF THE MAILING OF SUCH NOTICE.

12 2. IN ORDER TO REBUT THE PRESUMPTION ESTABLISHED PURSUANT TO SUBDIVI-  
13 SION ONE OF THIS SECTION, A MUNICIPAL BOARD MUST ADOPT A DETAILED WRIT-  
14 TEN FINDING AND HAS THE BURDEN OF PROOF TO SHOW BY CLEAR AND CONVINCING  
15 EVIDENCE THAT:

16 A. A CHANGE IN APPLICABLE FEDERAL OR STATE LAWS, RULES, OR REGULATIONS  
17 ALTERS THE RELEVANT REQUIREMENTS; OR

18 B. NEWLY DISCOVERED INFORMATION OR CHANGES IN CIRCUMSTANCES SPECIF-  
19 ICALLY RELATED TO THE PROPOSED PROJECT OR ITS SITE, WILL ESTABLISH THAT:

20 (I) THE PROJECT IS LIKELY TO HARM OR ENDANGER THE PUBLIC HEALTH, SAFE-  
21 TY, GENERAL WELFARE OR BIOLOGICAL HABITAT; AND

22 (II) SUCH HARM OR ENDANGERMENT WILL NOT BE PREVENTED BY EXISTING LAWS,  
23 CODES, ORDINANCES, RULES, OR REGULATIONS, OR BY GOVERNMENTAL ENTITIES;  
24 OR

25 C. THE MUNICIPAL BOARD IS APPLYING A NEW OR ALTERED REQUIREMENT THAT  
26 HAS BEEN THE SUBJECT OF A DRAFT ENVIRONMENTAL IMPACT STATEMENT THAT WAS  
27 FILED BEFORE THE FILING DATE OF THE SUBJECT APPLICATION, AND HAS SUBSE-  
28 QUENTLY BECOME FINAL IN NOT SUBSTANTIALLY MORE STRINGENT FORM THAN THAT  
29 DESCRIBED IN SUCH DOCUMENT, INSOFAR AS IS RELEVANT TO THE SUBJECT  
30 PROJECT.

31 3. SUCH A FINDING SHALL BE DEEMED TO BE A FINAL AGENCY ACTION FOR  
32 PURPOSES OF ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES  
33 AND MUST BE CHALLENGED WITHIN FOUR MONTHS OF THE ADOPTION OF THE FINDING  
34 BY A MUNICIPAL BOARD.

35 4. NOTHING IN THIS SECTION SHALL BE INTERPRETED TO PRECLUDE:

36 A. THE ADMINISTRATION OF ALL EXISTING LAWS, RULES AND REGULATIONS AS A  
37 RESULT OF WHICH THERE COULD BE REQUIREMENTS IMPOSED ON THE PROPOSED  
38 PROJECT; OR

39 B. CHANGES TO SUCH LAWS, RULES AND REGULATIONS THAT WOULD AFFECT  
40 FUTURE APPLICATIONS.

41 5. THIS SECTION SHALL NOT APPLY TO APPLICATIONS REQUIRING CHANGES IN  
42 ZONING PROVISIONS THAT ARE SOUGHT BY THE APPLICANT IN CONNECTION WITH  
43 THE PROPOSED PROJECT PRIOR TO THE ADOPTION OF ANY SUCH CHANGES.

44 6. ANY SUBSTANTIAL CHANGES TO THE PROPOSED PROJECT WHICH IS THE  
45 SUBJECT OF THE APPLICATION BY THE APPLICANT, WHICH HAVE NOT BEEN GENER-  
46 ATED IN RESPONSE TO A COMMENT (EXCEPTING A COMMENT BY, ON BEHALF OF OR  
47 AT THE BEHEST OF THE APPLICANT) DURING THE REVIEW PROCESS, WILL BE  
48 DEEMED A NEW APPLICATION.

49 S 2. This act shall take effect on the one hundred eightieth day after  
50 it shall have become a law.