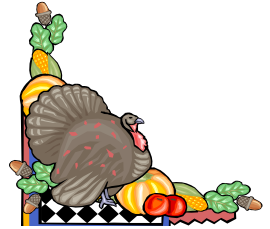




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Happy Thanksgiving!



“Tip of the Month”

NH Comprehensive Shoreland Protection Act – Be Careful!

You own property near the water and you’re planning to expand your building footprint or clear trees or to add a garage. You’ve hired a contractor, you’ve obtained a building permit from your town and, if needed, a zoning variance. You’re ready to start construction or removal. No problems, right? . . . Maybe, you should first make sure that your property is not subject to the Comprehensive Shoreland Protection Act (the “CSPA”) and its 2007 and 2008 amendments.

The CSPA applies to all land located within 250 feet of the reference line of public waters. Public waters are all lakes, ponds, and artificial impoundments greater than 10 acres in size, all waters subject to the ebb and flow of the tide including the Great Bay Estuary and the associated tidal rivers, all year-round flowing waters (i.e., rivers) of fourth order or higher, and all river segments designated as protected under the Act. The reference line depends on the type of surface water. For lakes, ponds and artificial impoundments, the reference line is the surface elevation as per the Consolidated List of Water Bodies. For rivers, it is the ordinary high water mark. For coastal waters, it is the highest observable tide line.

The Act prohibits or restricts some activities within the protected shoreland and establishes standards for other development activities. Included are primary building line setbacks, a natural woodland buffer and a waterfront buffer. The Act requires a natural woodland buffer be maintained within 150 feet of the reference line and the first third of this buffer is the waterfront buffer. For the waterfront buffer, a grid-and-point system divides the buffer zone into 50-foot by 50-foot segments and requires minimum standards in each segment. Unlike the waterfront buffer, the grid-and-point system does not apply to the natural woodland buffer. The natural woodland buffer, however, has requirements for maintaining the buffer zone in an “undisturbed state.” These requirements apply to the woodland buffer as a whole and relate to a limit on impervious surfaces; buildings and driveways are considered impervious surfaces.

There are also certain activities that do not require a Shoreland Permit. These include exemptions due to activity falling under another statute, regular yard maintenance, activities not meeting the definition of construction, excavation, or filling, de minimis construction, excavation or filling, and legal nonconformities and vested rights.

In summary, the Act is very comprehensive and relative to other statutes contains a lot of detail that a landowner and/or his/her contractor needs to know and understand. The penalties can be harsh.

Our Tip: Assuming the activity you intend to undertake is within 250 feet of the reference line of public waters, you should carefully review the Act needs to be undertaken before beginning the activity.

If you need help navigating the Comprehensive Shoreland Protection Act, the attorneys at Mesmer & Deleault are here to help. For more information, please do not hesitate to give us a call at 668-1971 or contact us by email at *mailbox @ biz-patlaw.com*.

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