

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE COUNTY

To one of the constables of the Town of Stockbridge in said county.

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby required to notify and warn the inhabitants of said Town, qualified to vote in Town affairs, to meet at the

**STOCKBRIDGE SPORTSMEN’S CLUB
24 WEST STOCKBRIDGE ROAD**

in Stockbridge on **WEDNESDAY, THE TWENTY-THIRD OF AUGUST 2006** at six-thirty o’clock in the evening Eastern Daylight Savings Time, for the following purposes, to wit:

ARTICLE 1: To see if the Town will vote to amend the Zoning Bylaws by striking section 6.5 therefrom and replacing it with the following:

6.5 Lake and Pond Overlay District (LPOD)

6.5.1 Purpose

The Lake and Pond Overlay District (LPOD) is intended to protect and enhance the principal lakefronts and shorelines of the Town of Stockbridge; to maintain safe and healthful conditions; to prevent and control water pollution; and to preserve habitat, vegetative cover and natural beauty.

6.5.2 Description

This LPOD shall include:

- The lakefront of the Stockbridge Bowl, Lily Pond, Echo Lake, Mohawk Lake and Agawam Lake and one hundred fifty (150) feet back from the high water mark of these waterbodies;
- The shoreline of the Housatonic River and its permanent tributaries and one hundred fifty (150) feet back from the high water mark of the River and its permanent tributaries; and
- Kampoosa Bog, which shall include all the contiguous or hydrologically connected Wetland Resources Areas as defined under the Massachusetts Wetland Protection Act and Regulations (310 CMR 10), draining ultimately into Kampoosa Brook, upstream of the earthen berm that extends easterly from Route 7 shown on Stockbridge tax map #26, lot #49 and one hundred fifty (150) feet back from their boundaries.

6.5.3 Relation to Other Districts

The LPOD is an overlay district mapped over other districts. Where there is an inconsistency between the requirements of Section 6.5 and the regulations otherwise applicable in such other districts, the more restrictive provision shall be deemed to apply.

6.5.4 Applicability

a. Jurisdictional Activities

Except as otherwise provided in Section 6.5, no building, structure or land use activity shall be permitted except pursuant to a special permit issued by the Planning Board pursuant to the requirements of Sections 6.3 and 6.5.

For the purposes of Section 6.5, “land use activity” shall mean any significant change in the physical characteristics of land or the physical or chemical characteristics of the wastewater produced from a building or structure, but excluding any exempt uses listed in paragraph b of this subsection. Except as otherwise provided in said paragraph b, “land use activity” shall include, but not be limited to: any extension or alteration of an existing structure; any removal of vegetation; any road or driveway; any excavation for the purpose of removing earth materials off-site; and any facility designed to prevent or mitigate the impacts of stormwater or associated drainage.

b. Exempt Activities

The following activities do not require a special permit, but must nevertheless comply with the requirements of subsection 6.5.9:

- Any principal or accessory use, otherwise permitted by this Bylaw, to be located within an existing structure, provided that any extension or alteration of such structure does not increase the height of the structure and is no closer to the high water mark than the existing structure; the resulting structure complies with applicable yard, lot coverage and floor area requirements of Section 5.5; and the chemical characteristics of any wastewater produced from such use are not significantly changed;
- Ordinary repair or maintenance of, or interior alterations to, existing structures;
- Removal of dead, diseased or dying trees and vegetation;
- Ordinary pruning or maintenance of shrubs or trees;
- Other gardening uses that do not involve the cutting of shrubs or trees;
- Structures under one hundred (100) square feet in footprint area; and
- Recreational, municipal or governmental uses that, by their nature, must be located within the LPOD.

6.5.5 Prohibited Activities

The following activities shall be prohibited within the LPOD:

- The storage or dumping of any waste material, junk, refuse, or other debris;
- The discharge or application of wastewater or any pollutant except as specifically permitted by the Board of Health; and
- The relocation of perennial or intermittent watercourses, the filling or reclaiming of wetlands and watercourses, the mining or off-site removal of topsoil, subsoil, clay, peat, gravel, sand, shale or other similar materials.

6.5.6 Required Findings

The Planning Board shall approve a special permit for any building, structure or land use activity within the LPOD if it finds that the building, structure or land use activity meets all application and site plan requirements set forth in Section 6.3 and subsection 6.5.8 and all applicable land use and development standards set forth in subsection 6.5.9.

6.5.7 Procedure

The procedure for review and approval under this section shall be as set forth in Sections 6.3 and 6.5.

A Site Plan satisfying the requirements of subsections 6.3.7 and 6.5.8 is required for any proposed building, structure or land use activity within the LPOD for which a special permit is required.

Special permit applications and site plans shall be submitted to the Board of Selectmen for its review and comment to the Planning Board.

6.5.8 Application and Site Plan Requirements

In addition to the application and site plan data required by Section 6.3, an Applicant for a special permit pursuant to Section 6.5 shall submit the following information to the Planning Board for its review:

- Boundaries of the property plotted to scale;
- Existing watercourses;
- A grading and drainage plan, showing existing and proposed contours at a two (2) foot contour in the area of activities for which a special permit under section 6.5 is being sought, and a five (5) foot contour elsewhere;
- The location and description of existing and proposed features;
- The location, design, and construction materials of all driveway, parking and loading areas;
- The location of all stormwater drainage areas (catchments) for each distinct receiving water/wetland area within and/or downgradient of activities for which a special permit under section 6.5 is being sought;
- Soils-based stormwater infiltration rates using the following table:

Texture Class	NRCS Hydrologic Soil Group	Design Infiltration Rate (inches per hour)
Sand	A	8.27
Loamy Sand	A	2.41
Sandy Loam	B	1.02
Loam	B	0.52
Silt Loam	C	0.27
Sandy Clay Loam	C	0.17
Clay Loam	D	0.09
Silty Clay Loam	D	0.06
Sandy Clay	D	0.05
Silty Clay	D	0.04
Clay	D	0.02

- Plans and specifications for soil erosion and sedimentation control measures;
- A timing schedule indicating anticipated starting and completion dates, the sequence of anticipated tasks, and the duration of exposure of each disturbed area prior to the completion of effective erosion and sediment control measures;
- For any land use activity involving the construction or expansion of a building or structure, the paving of roads, or the creation of driveway, parking and loading area, the results of a pollutant loading model demonstrating that

stormwater flow on or from the site will not result in a discharge of any pollutant in violation of subsection 6.5.5. Such model shall evaluate the loadings of nutrients (nitrogen and phosphorus), bacteria, metals and total suspended solids, the expected removal rates associated with any stormwater treatment facility and the resulting loads to the LPOD.

The site plan shall be developed subsequent to, and in accordance with an existing natural resources conditions inventory that shows topography including steep slopes (greater than 10%), severe slopes (greater than 20%), soils limitations (constraints related to septic system suitability and erosive characteristics as mapped by the USDA, Natural Resources Conservation Service) and vegetation.

6.5.9 Land Use and Development Standards

All buildings, structures and land use activities shall comply with the following standards:

a. Development of Lots

- The minimum setback from the high water mark for buildings and structures shall be one hundred (100) feet.
- The maximum lot coverage by buildings, structures and impermeable surfaces within the LPOD shall be fifteen (15) percent of the total lot area within the LPOD.
- All driveway, parking and loading areas shall be constructed of permeable materials.

b. Erosion and Sedimentation Control

- Natural vegetation shall be maintained on at least seventy-five percent (75%) of the total lot area within the LPOD.
- Grading shall not result in the creation of slopes greater than twenty percent (20%) within the LPOD.
- Activities that result in slopes exceeding ten percent (10%) shall incorporate the use of staked haybales, siltation fences, sedimentation basins and silt traps to control sedimentation and erosion during construction. Such practices shall be implemented within twenty-four (24) hours of clearing and excavation and shall be maintained until completion of all such activities.
- All activities shall be completed within 90 days from original clearing and excavation, except as otherwise authorized by the Building Inspector, in order to minimize exposure to sedimentation and erosion.
- In cleared areas surrounding the creation of new impermeable surfaces, temporary or permanent vegetative landscaping shall be employed within seven (7) days of initial clearing and excavation.
- Stockpiled soils or other erodible materials shall be securely covered and/or vegetated to avoid erosion and sedimentation during construction.

c. Stormwater Management

- Upon completion of activities for which a special permit under Section 6.5 has been granted, stormwater runoff rates shall match pre-development (natural) conditions for the two-, twenty-five- and one-hundred- (2-, 25- and 100-) year events in each catchment area.

- Upon completion of activities for which a special permit under Section 6.5 has been granted, annual groundwater recharge rates shall match pre-development (natural) conditions to preserve groundwater supplies and to protect baseflow to downgradient streams, lakes and wetlands.
- Upon completion of activities for which a special permit under Section 6.5 has been granted, additional stormwater recharge shall be provided in an amount equal to the total volume of consumptive uses of groundwater withdrawals, such as drinking water and irrigation, on the site.
- Stormwater treatment using bioretention areas, constructed wetlands or organic filters shall be provided for the first flush (one-inch) rainstorm from roads, other paved areas and metallic roofs prior to infiltration/recharge. Stormwater treatment facilities may be designed to include both static storage and dynamic infiltration (infiltration that occurs during the peak 2 hours of the design storm event).
- Pollutant loading shall be less than the following receiving water standards:

a. Phosphorus	0.08 mg/liter
b. Bacteria	200 colonies/100 milliliters
c. Metals	applicable federal and state drinking water standards

d. Cutting

- Except as otherwise permitted by this subsection, no vegetation may be removed within thirty-five (35) feet extending inland from any point along the high water mark. This area shall be maintained as an undisturbed natural buffer strip.
- For the purpose of water access, a contiguous clear-cut opening in the buffer strip, not to exceed thirty-five (35) feet in width or twenty percent (20%) of the lot's frontage along the water, whichever is less, shall be permitted. Such opening shall not be less than thirty (30) degrees from perpendicular to the water's edge.

or to take any other action in relation thereto.

ARTICLE 2: To see if the Town will vote to amend the Zoning Bylaws by:

(a) adding a new subsection 37 to Section 4.11.A thereof, as follows:

	R-4	R-2	R-C	R-1	B	M
37. Adult bookstore, adult motion picture theater, adult paraphernalia store, adult video store, establishment that displays live nudity for its patrons, or other form of adult business as described in <i>M.G.L. c.40A, §9A</i> , subject to the requirements of Section 6.26.	NO	NO	NO	NO	NO	SPS

(b) adding a new Section 6.26, as follows:

6.26 Adult Businesses

6.26.1 Definitions

The definitions of adult bookstore, adult motion picture theater, adult paraphernalia store, adult video store, and establishment that displays live nudity for its patrons shall be those provided in *M.G.L. c.40A, §9A*.

6.26.2 Special Permit Required

A Special Permit from the Board of Selectmen shall be required for any adult bookstore, adult motion picture theater, adult paraphernalia store, adult video store, establishment that displays live nudity for its patrons, or other form of adult business as described in *M.G.L. c.40A, §9A*.

6.26.3 Special Permit Applications

An application for a Special Permit pursuant to Section 6.26 shall comply with the rules pertaining thereto, adopted by the Board of Selectmen and kept on file in the office of the Town Clerk, as well as with the requirements of Section 6.3.

An application for a Special Permit pursuant to Section 6.26 shall include a site plan, which shall comply with the requirements of subsection 6.3.8.

6.26.4 Special Requirements

No Special Permit pursuant to Section 6.26 may issue to any person convicted of violating *M.G.L. c.119, §63* or *M.G.L. c.272, §28*.

6.26.5 Location

Notwithstanding any provision of Section 5 to the contrary, no adult motion picture theater, adult paraphernalia store, adult video store, establishment that displays live nudity to its patrons, or other form of adult business as described in *M.G.L. c.40A, §9A* may be located:

- a. Within one hundred (100) feet of a public or private way;
- b. Within one hundred (100) feet of an R-4, R-2, R-1 or R-C Zoning District or residential use;
- c. Within one thousand (1000) feet of another adult business for which a Special Permit has previously been issued pursuant to Section 6.26;
- d. Within one thousand (1000) feet of an establishment licensed pursuant to the provisions of *M.G.L. c.138, §12*; or
- e. Within five hundred (500) feet from the nearest property line of any church or religious facility, public or private school, child care facility, public playground, park or conservation area in existence at the time of the application for a Special Permit pursuant to Section 6.26.

6.26.6 Adult Business Signs

No sign advertising an adult business shall be permitted unless each of the following standards is fully satisfied:

- a. No free-standing sign shall be permitted;
- b. A sign may be located only on a building in which there is an adult business operating under a Special Permit issued pursuant to Section 6.26;
- c. The size of the sign shall not exceed sixteen (16) square feet;
- d. No temporary signs and no window signs shall be permitted;
- e. No pictures, publications, videotapes, movies, covers, or other stock sold by, or advertising for material presented at an adult bookstore, adult motion picture theater, adult paraphernalia store, or establishment that displays live

nudity to its patrons shall be displayed in the windows of, or on the building of, any adult use; and

f. All requirements of Section 6.8 shall be satisfied.

6.26.7 Lapse of Special Permit

Notwithstanding any provision of Section 6.3 to the contrary, a Special Permit issued pursuant to Section 6.26 shall lapse one year from the date of its issuance if substantial use or construction pursuant to its terms has not commenced, except for good cause.

6.26.8 Conditions

The Board of Selectmen may impose reasonable conditions, safeguards and limitations on time or use of any Special Permit granted pursuant to Section 6.26. Any Special Permit granted pursuant to Section 6.26 shall be personal to the Applicant, shall not run with the land and shall expire upon sale, conveyance or transfer of the subject property.

6.26.9 Expiration of Special Permit

A Special Permit granted pursuant to Section 6.26 shall expire after a period of one calendar year from the date of its issuance. The Special Permit shall be renewable for successive two-year periods thereafter, provided that the holder of the Special Permit submits to the Board of Selectmen, prior to said expiration, a written request for renewal, and provided also that no objection to said renewal is made and sustained by the Board of Selectmen based upon the public safety factors applied at the time that the original Special Permit was granted.

6.26.10 Severability

If any provision of Section 6.26 shall be found invalid for any reason, such invalidity shall be construed as narrowly as possible and the balance of the Section shall be deemed to be amended to the minimum extent necessary to provide the Town substantially the benefits set forth in Section 6.26.

or to take any other action in relation thereto.

ARTICLE 3: To see if the Town will vote to amend the Zoning Bylaws by:

(a) adding to Section 2.2, after the definition of "Boathouse," the following:

Body Art. Any method of inserting a needle into the body to place jewelry and/or indelible colors in the perforation produced by the needle so as to leave permanent marks or designs, or other method of making or leaving permanent marks on, or alterations to, the body for adornment purposes. This definition includes, but is not limited to, body piercing, tattooing, cosmetic tattooing, branding, scarification and any other technique of physical body adornment. This definition also includes piercing of the outer perimeter of the ear, but does not include piercing of the earlobe with pre-sterilized single-use stud-and-clasp ear-piercing systems.

Body Art Establishment. Any place where body art procedures are practiced or where the business of body art is conducted, or any part thereof.

(b) adding new subsections 38 to Section 4.11.A thereof, as follows:

38. Body Art Establishment holding a valid permit from the Tri-Town Health Department, subject to the requirements of Section 6.27.	R-4	R-2	R-C	R-1	B	M
	NO	NO	NO	NO	NO	SPS

(c) adding a new Section 6.27, as follows:

6.27 **Body Art Establishments**

6.27.1 **Special Permit Required**

A Special Permit from the Board of Selectmen shall be required for any Body Art Establishment. An application for such Special Permit shall comply with the requirements of Section 6.3.

6.27.2 **Location**

Notwithstanding any provision of Section 5 to the contrary, no Body Art Establishment may be located:

- a. Within one thousand (1000) feet of an establishment licensed pursuant to the provisions of *M.G.L. c.138, §12*; or
- b. Within five hundred (500) feet from the nearest property line of any church or religious facility, public or private school, child care facility, public playground, park or conservation area in existence at the time of the application for a Special Permit pursuant to Section 6.27.

6.27.3 **Conditions**

The Board of Selectmen may impose reasonable conditions, safeguards and limitations on time or use of any Special Permit granted pursuant to Section 6.27.

6.27.4 **Severability**

If any provision of Section 6.27 shall be found invalid for any reason, such invalidity shall be construed as narrowly as possible and the balance of the Section shall be deemed to be amended to the minimum extent necessary to provide the Town substantially the benefits set forth in Section 6.27.

or to take any other action in relation thereto.

ARTICLE 4: To see if the Town will vote to amend 6.14(a) of the Zoning Bylaws by striking the word “or” therefrom and replacing it with the word “and,” or to take any other action in relation thereto.

ARTICLE 5: To see if the Town will vote to accept the provisions of Chapter 100 of the Acts of 2006, or to take any other action in relation thereto.

ARTICLE 6: To see if the Town will vote to authorize leasing of a portion of the Plain School to the Berkshire Hills Regional School District, under terms and conditions as the Board of Selectmen deem appropriate, in accordance with the provisions of section 14C of chapter 71 of the General Laws, or to take any other action in relation thereto.

ARTICLE 7: To see if the Town will vote to authorize leasing of additional space in the Plain School as the Board of Selectmen deem appropriate for a period not to exceed ten years in accordance with section 3 of chapter 40 of the General Laws, or to take any other action in relation thereto.

ARTICLE 8: To see if the Town will vote to rescind Article 8 of the 2006 Annual Town Meeting, or to take any other action in relation thereto.

You are directed to post true and attested copies of this Warrant, one in each of the Post Offices of said Town, the Town Hall, Stockbridge Firehouse and Interlaken Firehouse, at least fourteen days before the time of said meeting. Hereof fail not and make due return of this warrant with your doings thereon to the undersigned or to the Town Clerk at or before the time of said meeting.

Given under our hands at Stockbridge, August 8, 2006

Board of Selectmen

Deborah S. McMenemy, Chairman

J. Cristopher Irsfeld

George E. Shippey

Indicate Method of Service

Date

Constable

Stockbridge Post Office
Glendale Post Office
Stockbridge Firehouse
Interlaken Firehouse
Stockbridge Town Hall