

CHAPTER 61
STOCKBRIDGE-MUNSEE TRIBAL LAW
MARRIAGE

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Section 61.1 Title

This Code shall be known and may be cited as the Stockbridge-Munsee Marriage Code.

Section 61.2 Purpose

The purpose of this Code is to establish procedures for Marriage within the Tribe's Reservation and the recognition of Marriages performed outside of the Tribe's Reservation.

Section 61.3 Authority

The Tribal Council enacts this Code pursuant to the duties under Article VII, Section 3.

Section 61.4 Severability

If any provision of this Code, or the application thereof to any person or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Code, which shall continue in full force and effect.

Section 61.5 Applicability

- (A) This chapter authorizes the Stockbridge-Munsee Tribal Court to issue marriage licenses and perform marriages in which one or both parties to the marriage is a

- member of the Stockbridge-Munsee Tribe or is a resident of the Stockbridge-Munsee Community.
- (B) The procedures set forth herein shall be exclusive as to any marriage performed on the reservation, in which both parties are members of the Stockbridge-Munsee Tribe.
- (C) The procedures set forth herein shall be concurrent with the procedures established by the laws of the state of Wisconsin as to any marriage performed on the reservation in which one party is not a member of the Stockbridge-Munsee Tribe or is not a resident of the Stockbridge-Munsee Community. The completion of an application for a marriage license under this chapter constitutes the nonmember's consent to the tribe's jurisdiction to grant such a license.
- (D) To the extent that any provisions of this section of the Code, or the application thereof to any person or circumstance, shall for any reason, conflict with the remainder of the Code, Section 61, legalizing same-sex marriage, shall prevail. The other conflicting provisions will be invalidated, and this section of the Code shall continue in full force and effect.

Section 61.6 Definitions

The following terms, whenever used or referred to in this Code, shall have the following respective meanings:

- (A) "Stockbridge-Munsee" means the Stockbridge-Munsee Tribe.
- (B) "Member" means a duly enrolled member of the Tribe.
- (C) "Code" or "Marriage code" means this Stockbridge-Munsee Marriage Code.
- (D) "Constitution" means the Constitution of the Tribe, as amended.
- (E) "Council" or "Tribal Council" means the elected governing body of the Stockbridge-Munsee Tribe established under Article IV of the Constitution.
- (F) "Clerk of the Court" or "Tribal Court Clerk" means the clerk of the Stockbridge-Munsee Tribal Court.
- (G) "Marriage" is a civil contract between two (2) persons, regardless of their sex,

creating a union to the exclusion of all others.

(H) “Solemnize” means to perform a Marriage ceremony or to enter into a Marriage publicly before witnesses pursuant to this Code, as applicable.

Section 61.7 Marriage is a Contract

Marriage under this law is a civil contract to which the consent of the parties capable in law of contracting is essential, and which creates a union between two (2) persons, regardless of their sex (or gender), to the exclusion of all others.

Section 61.8 Who may Contract; Marriageable Age

(A) Any person who has attained the age of eighteen (18) years may marry if otherwise competent.

(B) Any person between ages sixteen (16) and eighteen (18) may marry with the written consent of the person’s parents, legal guardian or custodian.

Section 61.9 Who may not Contract; Invalid or Prohibited Marriages

(A) No marriage shall be contracted while either of the parties is lawfully married to another person.

(B) Persons closer in relationship than second cousins may not marry except that first cousins may marry if the female has attained the age of fifty-five (55) years or where either party at the time of application for marriage license submits an affidavit signed by a physician stating that either party is permanently sterile.

(C) A marriage may not be contracted if either party is not capable of understanding what it means to agree to become married.

(D) No person who is or has been a party to an action for divorce in any court may marry again until six (6) months after judgment of divorce is granted, and the marriage of any such person solemnized before the expiration of six (6) months from the date of the granting of judgment of divorce shall be void.

Section 61.10 Identification of Parties

- (A) A person under the age of thirty (30) must present proof of age by presenting a certified copy of his or her birth certificate.
- (B) Each party to the marriage must present satisfactory documentary proof of identification and residence.
- (C) Each party to the marriage must present satisfactory copies of documents providing proof that he or she is free to marry, such as proof of death of previous spouses, or proof of divorce or annulment of previous marriages.

Section 61.11 Marriage Licenses

- (A) A marriage license shall be issued by the Clerk of Court upon receiving a completed application form from two (2) unmarried persons, regardless of sex (or gender), and in the absence of any showing that the proposed marriage would be invalid under any provisions of this code. The marriage license shall become effective on the 6th (sixth) day after issuance and shall remain effective until the 30th (thirtieth) day after issuance.
- (B) Any person who applies for a Marriage license under this Code shall be deemed to have given consent to the personal jurisdiction of the Tribe, the Tribal Court, and the Court of Appeals, and to have waived all available defenses against such jurisdiction.

Section 61.12 Fee

A fee shall be determined by the Court for the issuance of marriage licenses.

Section 61.13 Solemnization of Marriage Contract

- (A) **Officiate at Marriages.** A marriage shall be validly solemnized and contracted after the issuance of license and by the mutual declarations of the two parties involved that they agree to enter into marriage before a duly authorized officiate and in the presence of at least two competent adult witnesses. The following persons are duly authorized to be officiates:
 - (1) Any ordained clergyman of any religious denomination or society;

- (2) Any spiritual leader recognized as such by the Community;
- (3) Any tribal judge or judge of court of record;
- (4) Any family court commissioner or court commissioner appointed under Wisconsin law.

Section 61.14 Grounds for Annulment or Voidable Marriage

A marriage may be voided or annulled by the Tribal Court for any one of the following reasons upon the application of one of the parties to marriage:

- (A) When either party to the marriage shall be incapable of consenting thereto.
- (B) When the consent was obtained by force or fraud.
- (C) When either party was at the time of the marriage incapable of consummating the marriage and the incapacity is continuing.
- (D) When the marriage was invalid on one of the grounds set forth in Section 61.9.

Section 61.15 Delivery and Filing of Marriage Document

The marriage document, legibly and completely filled out in ink shall be returned by the officiating person or by the parties to the marriage contract to the clerk of court within 10 days after the date of marriage, so that it may be filed on record with the Tribal Enrollment Office and a copy of the same with the State of Wisconsin Bureau of Vital Statistics.

LEGISLATIVE HISTORY

1. Chapter 61, Marriage, approved by the Stockbridge-Munsee Tribal Council, Resolution No. 108-97, January 21, 1997.
2. Chapter 61, Marriage was amended by the Stockbridge-Munsee Tribal Council by Resolution No. 024-16, February 2, 2016. Approved by BIA on February 22, 2016.