

CHAPTER 61
STOCKBRIDGE-MUNSEE TRIBAL LAW
MARRIAGE

Section 61.1 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 Band of Mohicans 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.

Section 61.2 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 the legal status of husband and wife.

Section 61.3 Who may Contract; Marriageable Age

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

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

Section 61.4 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 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 61.5 Identification of Parties

(A) A person under the age of 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 they are free to marry, such as proof of death of previous spouses, or proof of divorce or annulment of previous marriages.

Section 61.6 Marriage Licenses.

A marriage license shall be issued by the Clerk of Court upon receiving a completed application form from an unmarried male and an unmarried female 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.

Section 61.7 Fee.

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

Section 61.8 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 become husband and wife 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 61.9 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 61.4.

Section 61.10 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.