

## CHAPTER 44

### STOCKBRIDGE-MUNSEE TRIBAL LAW MEMBERSHIP

#### Section 44.1

The original membership of the Stockbridge-Munsee Community shall consist of all persons eligible under the definition of membership contained in Article III, Section 1, 2, and 3 of the Constitution of the Stockbridge-Munsee Community.

#### Section 44.2

A Membership Committee consisting of seven persons effective March 20, 2001 is hereby established which shall accept all applications for adoption, shall conduct investigations of tribal status, degree of Indian blood and other characteristics of the applicants as it shall deem necessary in determining whether the applicants should be adopted as members of the Community, and shall thereupon submit such information to the Council together with recommendations indicating the Committee's approval or disapproval in each case.

#### Section 44.3

(A) The Membership Committee shall be appointed by the Tribal Council for a period of two years. The Committee shall have only advisory powers and no member shall be at the same time a member of the Council. The recommendations of the Committee shall be made in writing and signed by at least four members of the Committee.

(B) Four terms of the Membership Committee shall run concurrently with the term of the Tribal President. The other three terms of the Membership Committee shall run for two years, but shall expire on the eve of the October election in years that the Tribal President is not up for Election.

(1) Section 44.3(B) is intended to implement staggered terms for the Membership Committee. Upon the adoption of the 2001 amendment and effective March 2001, the three incumbent Committee Members' terms shall expire on the eve of the October 2001 election, and on the eve of every other October election thereafter. As of March 20, 2001, the four other Committee Members' terms shall expire on the eve of the October 2002 election, and on the eve of every other October election thereafter.

(C) The Stockbridge-Munsee Community recognizes that elders can provide valuable input to the Membership Committee. Therefore, at least two of the Committee Members shall be elders (at least 55 years old), provided that at least two elders seek appointment to the Membership Committee. If elders do not seek appointment, the Membership Committee shall be appointed in accordance with Section 44.3(B), and without regard to elder status.

(1) The elder terms shall coincide with Section 44.3(B). One elder appointment shall expire on the eve of the October 2001 election, and on the eve of every other October election thereafter. The other elder appointment shall expire on the eve of the October 2002 election, and on the eve of every other October election thereafter.

(D) Tribal Council, by motion at a regularly scheduled Council meeting, reserves the right to remove a Membership Committee member for cause.

#### **Section 44.4**

All persons of Stockbridge-Munsee Indian blood whose name appears on the roll of 1871 and any subsequent roll including the roll of 1910, are hereby adopted into membership of the Stockbridge-Munsee Indian Community. Provided, that any person whose name appears on the 1871 Stockbridge-Munsee roll or any subsequent roll up to and including the roll of 1910 of the Stockbridge-Munsee Indians of Wisconsin, who has relinquished their membership, or their entitlement to membership, or have been disenrolled for any reason shall not be members of the Stockbridge-Munsee Community.

#### **Section 44.5**

Descendants of persons who are enrollees under the definition of Section 4 of this Ordinance shall be eligible for adoption into the Community, provided such descendants present acceptable evidence of being of one-quarter (1/4) or more degree Stockbridge-Munsee Indian blood.

#### **Section 44.6**

(A) Descendants of members of the Stockbridge-Munsee Community may be enrolled as members of the Community upon approval by the Tribal Council of a certified or photostatic copy of the descendant's birth certificate; Provided such descendants are of one-quarter (1/4) or more Stockbridge-Munsee Indian blood, and, Provided further that such descendants are not members of any other Indian tribe.

(B) In addition to meeting the requirements of Section 44.6(A), examples of other relevant documents that may be considered in determining blood degree include:

- 1) Treaties,
- 2) Corn list 1838,
- 3) Census 1842,
- 4) Land Assignments of 1843,
- 5) 1850 Calumet Co. Census,
- 6) 1893 Testimony,
- 7) 1901 Appl. For Buffalo, N.Y. Claim & other Census and Allotment Rolls,
- 8) 1905 Testimony,

- 9) Family Bibles,
- 10) Missionary Journals,
- 11) Heirship Roll, or
- 12) 1906 Allotment Roll.

(C) If the Membership Committee recommends to Tribal Council to deny enrollment to an applicant, the following procedure shall apply:

(1) At least two regular Tribal Council meetings are required in order to deny membership.

(2) At a regular Tribal Council meeting, the Tribal Council shall announce, by motion, its intent to deny membership to the named applicant. For the purpose of this Chapter, regular Tribal Council meeting has the same meaning as in Chapter 50.9 of the Stockbridge-Munsee Community ordinances.

(3) The Tribal Council Secretary shall than notify the applicant that the Tribal Council is considering denying the membership application.

(a) Such notification shall be in writing and shall be served via certified, restricted, return receipt requested.

(b) The notification shall state the following:

“At the \_\_\_\_\_(date) regular Tribal Council meeting, Tribal Council \_\_\_\_\_ made a motion of its intent to deny membership to \_\_\_\_\_ (applicant’s name). Tribal Council based its decision on \_\_\_\_\_

**You have thirty calendar days to respond if you wish to challenge Tribal Council’s intent to deny membership.** If you do not respond within thirty calendar days, Tribal Council may deny membership to the applicant at its next Regular Tribal Council meeting.

If you chose to contest Tribal Council’s intent to deny membership, the applicant, its parent(s), its guardian, or representative must respond in writing to the Tribal Secretary. Your response must be received within thirty calendar days of you receiving this notice. If you are contesting Tribal Council’s intent to deny membership, the applicant, its parent(s), its guardian, or representative will have the opportunity to review the copies of the documents that Tribal Council is relying on.

If you are contesting Tribal Council’s intent to deny membership, the Tribal Council Secretary will then contact the applicant in order to schedule the membership issue on an upcoming regular Tribal Council

meeting agenda. The Tribal Council Secretary will also provide you with the copies of relevant documents that Tribal Council relied on for its intent to deny membership decision.”

(4) If the applicant has not responded to the Tribal Secretary’s Section 44.6(C)(3) notice, the Tribal Council may take action to deny membership to the applicant at a regular Tribal Council meeting.

(5) If the applicant has responded to the Tribal Secretary’s notice, the Tribal Council may not take action to deny membership unless the applicant, its parent(s), its guardian, or representative has had an opportunity to present its case to the Tribal Council in Executive Session at a regular Tribal Council meeting.

(a) The applicant, parent of the applicant, guardian of the applicant or representative of the applicant bears the burden of proving that enrollment should not be denied.

(b) Notwithstanding Section 44.6(C)(5), Tribal Council may take action to deny membership if the applicant, its parent(s), its guardian, or representative does not attend a Tribal Council meeting within ninety calendar days after responding the Tribal Secretary’s Section 44.6(C)(3)notice.

(6) Nothing in Section 44.6(C) is intended to limit Tribal Council’s authority to consider membership matters to only two Tribal Council meetings, provided that applicants are provided with the opportunity to respond pursuant the requirements in Section 44.6(C).

(D) All seven (7) members of the Tribal Council shall be present in order to take action on the final decision to deny membership as outlined in Sections 44.6 (C) (4) and (5) above.

(E) Tribal Council is the final forum to determine Tribal Member eligibility.

#### **Section 44.7**

Enrolled Tribal Members may voluntarily relinquish their Tribal membership in accordance with established policies and procedures.

#### **Section 44.8 Sovereign Immunity**

Nothing in this Ordinance shall provide or be interpreted to provide a waiver of the Stockbridge-Munsee Community, or its governmental officers, agents, employees, or committees.

#### **Section 44.9 Severability**

If any section or any part thereof, of this Ordinance shall be held invalid or illegal by a court of competent jurisdiction, the remainder of the section or part of the Ordinance shall not be affected and shall remain in full force and effect as though no section, or part thereof, has been declared to be invalid or illegal.

## **LEGISLATIVE HISTORY**

1. Membership Ordinance was approved by Council February 20, 1940 and approved by Assistant Secretary Aug. 30, 1940.
2. Ordinance was amended Jan. 9, 1949, approved by BIA Jan. 19, 1949, adding Section 8 (becoming Section 7 at this writing, 1995, with all changes considered).
3. Section 4 amended by tribal referendum June 1, 1968, approved by Commissioner of Indian Affairs, April 11, 1969.
4. Section 6 of original document was deleted by Tribal Resolution 003, September 14, 1971 which began with "A member shall lose his or her membership in the Community upon maintaining a permanent residence away from the Community....." Received by BIA September 16, 1971. Approved by Commissioner September 28, 1971.
5. On March 20, 2001, Resolution No. 018-2001, Tribal Council adopted the following amendments:
  - 1) Section 44.1, technical change. The Ordinance incorrectly referred to Sections 11, 2 and 3 of Article III of the Tribal Constitution. The correct sections are 1, 2, and 3 of Article III of the Tribal Constitution.
  - 2) Section 44.2, expanding the Membership Committee from three to seven members, effective March 20, 2001.
  - 3) Section 44.3(A), deleted the reference that the Committee Members served "coinciding with the terms of the President of the Council" and changed the number of members who must sign the recommendations to Council from two members to four members to coincide with the seven member committee.
  - 4) Section 44.3(B) and Section 44.3(B)(1), newly created, establishing staggered terms for the seven member Membership Committee.
  - 5) Section 44.3(C), newly created, establishing the desirability that two of the Membership Committee be elders.
  - 6) Section 44.3(C)(1), newly created, establishing that the two elder terms be staggered terms.
  - 7) Section 44.3(D), newly created, establishing that Membership Committee member can be removed for cause.
  - 8) Section 44.7(B), newly created, incorporating the majority of the content of a 1985 Tribal Council directive (that was not previously incorporated into the Ordinance) so that the Membership Committee may consider other documents

in determining blood degree, in addition to meeting the requirements of Section 44.7(A).

March 20, 2001 amendments approved by BIA, April 10, 2001.

6. Section 44.8 newly created by Tribal Council on October 1, 2002 by Resolution No. 055-02. Approved by BIA on October 18, 2002.
7. Sections 44.7(C); 44.7(D); 44.9 and 44.10 newly created by Tribal Council on September 7, 2004 by Resolution No. 045-04. Approved by BIA on November 8, 2004.
8. On July 20, 2010, Resolution No. 055-10, Tribal Council adopted the following amendments:
  - 1) Deleting Section 44.6; and
  - 2) Renumbering 44.7; 44.8;44.9; 44.10; and
  - 3) Creating new Section 44.6 (C) (5) (a); and
  - 4) Renumbering Section 44.6 (C) (5) (c); and
  - 5) Creation new Section 44.6 (D); and
  - 6) Renumbering Sections 44.6 (E)Approved by the acting Superintendent of the BIA on August 13, 2010.
9. On October 5, 2010, Tribal Council made an administrative correction to necessitate their original intent by adding the words “take action on the final decision to deny membership as outlined in Sections 44.6 (C) (4) and (5) above” to Section 44.6 (D).