

## CHAPTER 5

### STOCKBRIDGE-MUNSEE TRIBAL LAW ADMINISTRATIVE APPEALS ORDINANCE

#### Section 5.1 Definitions

(A) “Administrative entity” or “entity” means a Tribal department, panel, committee or agency. The Tribal Council is not an administrative entity.

(B) “Court” means the Stockbridge-Munsee Tribal Court.

#### Section 5.2 Judicial Review; Decisions Reviewable

(A) Only those administrative appeals authorized by ordinance shall be subject to review by the Court.

(B) Before any appeal may be heard by the Court, the appealing party must have exhausted all other possible administrative remedies available. The Court shall not hear an appeal unless all other possible administrative remedies have been exhausted.

(C) The Court will only hear appeals on the basis of:

(1) Some material error of law.

(2) Some material error of fact.

(3) An abuse of discretion by the administrative entity.

#### Section 5.3 Petitions for Review

(A) Any person aggrieved by a final decision or order of an administrative entity of the Tribe may, within 20 days after the decision or order, file a written petition for the decision or order to be reviewed by the Court. If the decision of an administrative entity is not appealed within 20 days after the decision or order, the decision may not be appealed to the Court. Where tribal law specifies a time limit other than 20 days, it shall be controlling.

(B) Copies of petitions for review shall be served on all parties. Parties may file replies to the petition.

(C) The Court may order a hearing or enter an order with reference to the petition without hearing, and shall dispose of the matter within 60 days after the petition has been filed. If the Court does not enter an order disposing of the petition within the 60 day

period. Where tribal law specifies a different time limit other than 60 days, it shall be controlling.

(D) The cost of filing a petition under this ordinance shall be \$25.00.

#### **Section 5.4 Stay of Proceedings**

The institution of the proceeding of appeal to the Court shall not stay enforcement of the entity's decision. If a party requests it, the Court may order a stay upon such terms as it deems proper.

#### **Section 5.5 Record on Review**

(A) Within 30 days after service of the petition for review upon the administrative entity, that entity shall transmit to the reviewing Court the original or certified copy of the entire record of the proceedings in which the decision under review was made, including all pleadings, notices, testimony, exhibits, findings, decisions, orders and any other documents which relate to the appeal.

(B) The Court, for good cause, may order the record transmitted sooner than 30 days.

#### **Section 5.6 Scope of Review**

(A) The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases where there is the allegation of the discovery of new evidence, testimony may be taken regarding the new evidence.

(B) Unless the Court finds a ground for setting aside, modifying, remanding or ordering the entity to take a certain action or other relief as specified in this section, it shall affirm the administrative entity's action.

(C) In reviewing any decision or action by an administrative entity, the Court shall give deference to the administrative entity and shall not disturb the entity's action unless it finds, based on evidence in the record, a material error of law or fact or an abuse of the entity's discretion.

(D) The Court shall reverse or remand the case to the administrative entity if it finds that the administrative entity abused its discretion delegated to the entity by law.

### **Section 5.7 Proceedings**

(A) If the Court accepts an appeal, the Court may hear oral arguments from the parties.

(B) If the petition alleges that the discovery of new evidence will have a material impact on the case, the Court may elect to hear testimony and receive evidence on the subject of the newly discovered evidence.

#### LEGISLATIVE HISTORY:

Adopted by Resolution #1560-95 on December 27, 1995 by Tribal Council.