

CHAPTER 29

STOCKBRIDGE-MUNSEE TRIBAL LAW SOVEREIGN IMMUNITY ORDINANCE

Section 29.1 Findings

Section 29.2 Purpose

Section 29.3 Sovereign Immunity

Section 29.1 Findings

(A) Recognizing that there is a need to protect and preserve the sovereign immunity of the Stockbridge-Munsee Community, the Stockbridge-Munsee Tribal Council finds:

(1) That Article VII, Section 1 (f) of the Stockbridge-Munsee Community Constitution and By-Laws (approved November 18, 1937), as amended, provides in part that the Tribal Council has the power: "To promulgate and enforce ordinances, subject to the approval of the Secretary of the Interior, governing the conduct of members of the Community....and establishing proper agencies for law enforcement of the Community," and this provision authorizes the Tribal Council to create an ordinance regarding protection of the sovereign immunity of the Stockbridge-Munsee Community; and

(2) That the Stockbridge-Munsee Community has immunity from suit pursuant to the well settled doctrine of sovereign immunity and desires to preserve and protect this immunity; and

(3) That the Stockbridge-Munsee Community desires to clarify the process by which it may waive the defense of sovereign immunity.

Section 29.2 Purpose

(A) This ordinance shall be interpreted and understood to accomplish the following tribal objectives:

(1) To preserve and protect the inherent sovereign immunity of the Stockbridge-Munsee Community; and

(2) To define the entities and individuals entitled to the protection of sovereign immunity; and

(3) To establish the manner in which such immunity may be waived.

Section 29.3 Sovereign Immunity

(A) The Stockbridge-Munsee Community is immune from suit except to the extent that the Tribal Council expressly waives sovereign immunity by resolution or by enactment of an ordinance.

(B) Any official or employee of the Stockbridge-Munsee Community acting within the scope of their duties shall be immune from suit. Officials and employees who act beyond the scope of their duties and authority shall be subject to suit only for declaratory judgment or prospective injunctive relief in the Tribal Court System by persons subject to the jurisdiction of the Tribal Court System for purposes of enforcing rights and duties established by the Constitution or other applicable laws. No money damages shall be available in suits under this section.

(C) Persons subject to the jurisdiction of the Stockbridge-Munsee Community shall exhaust all remedies available to them under the Constitution and the laws of the Stockbridge Munsee Community before seeking redress of grievance against the Stockbridge-Munsee Community in the courts of the United States under any law of the United States granting those persons such rights, unless specifically agreed to otherwise by the parties.

(D) The Stockbridge-Munsee Community may appear specially to assert the defense of sovereign immunity in the Tribal Court System, the courts of the United States, or the courts of an individual state, and such appearance shall not constitute a waiver of sovereign immunity or a consent to the jurisdiction of said courts.

LEGISLATIVE HISTORY:

1. On June 2, 2015, the Tribal Council created the Sovereign Immunity Ordinance by Resolution #047-15. The Sovereign Immunity Ordinance includes language which was previously within Chapter One as well as an addition section 29.3(D).