

CHAPTER 16
STOCKBRIDGE-MUNSEE TRIBAL LAW
PUBLIC PEACE AND GOOD ORDER ORDINANCE

Section 16.1	Statement of Purpose, Findings, and Authority	Section 16.14	Obstruction Prohibited
Section 16.2	Jurisdiction	Section 16.15	Concealed Weapons Prohibited in Tribal Buildings
Section 16.3	Interpretation	Section 16.16	Littering Prohibited
Section 16.4	Definitions	Section 16.17	Nuisance Prohibited
Section 16.5	Damage to Property Prohibited	Section 16.18	Condemnation of Unsafe Buildings
Section 16.6	Disorderly Conduct and Disturbing the Peace Prohibited	Section 16.19	Abandoned Buildings
Section 16.7	Unlawful Use of Telephone and/or Electronic Communication Prohibited	Section 16.20	Animal Control
Section 16.8	Harassment Prohibited	Section 16.21	Park Rules
Section 16.9	Loitering and Trespass Prohibited	Section 16.22	Enforcement
Section 16.10	Misappropriation Prohibited	Section 16.23	Burden of Proof and Statute of Limitations
Section 16.11	Smoking Prohibited	Section 16.24	Penalties and Remedies for Violations
Section 16.12	Public Intoxication Prohibited	Section 16.25	Future Amendments
Section 16.13	Drug-Related Criminal Activity Prohibited	Section 16.26	Severability

Section 16.1 Statement of Purpose, Findings, and Authority

(A) Purpose. The Stockbridge-Munsee Tribal Council enacts this Ordinance to provide for the public peace and good order and to minimize health and accident hazards to lands and persons under the jurisdiction of the Stockbridge-Munsee Community.

(B) Findings. The Stockbridge-Munsee Tribal Council further finds that this chapter is necessary to protect social, economic and political welfare of the Stockbridge-Munsee Community and its members.

(C) Authority.

(1) The Ordinance is authorized under Article VII (f) of the Stockbridge-Munsee Constitution and inherent tribal authority as an exercise of governmental powers to govern the members of the Stockbridge-Munsee Community, as well as the use, management and administration of the Stockbridge-Munsee Reservation.

(2) In addition, the Stockbridge-Munsee Community has authority over tribal lands owned in fee simple by virtue of its ownership of such land and its authority over the conduct of its members and may enforce this Ordinance consistent with such authority.

Section 16.2 Jurisdiction

(A) Territorial Jurisdiction. This ordinance shall apply on the Stockbridge-Munsee Reservation, which for purposes of enforcement of this ordinance includes proclaimed reservation lands and tribal trust lands as well as individual trust lands under the jurisdiction of the Stockbridge-Munsee Community. This ordinance shall also apply in relation to lands that the Stockbridge-Munsee Community owns in fee simple.

(B) Personal Jurisdiction. This ordinance shall apply in relation to members of the Stockbridge-Munsee Community, as well as such persons who consent to the jurisdiction of the Stockbridge-Munsee Community by entering tribal lands and endangering the economic, social and political welfare of the Stockbridge-Munsee Community by violating this ordinance.

(C) Subject Matter Jurisdiction. The Stockbridge-Munsee Tribal Court may exercise jurisdiction to hear violations of this ordinance where there is territorial and/or personal jurisdiction.

Section 16.3 Interpretation

This ordinance shall be deemed as a reasonable and proper exercise of the sovereign power of the Stockbridge-Munsee Community for the protection of the tribal community's land, welfare, health, peace and morals. All provisions of this ordinance shall be liberally construed for the accomplishment of these purposes.

Section 16.4 Definitions

In this ordinance, unless the context otherwise requires:

(A) "Conservation Officers" means individuals employed by the Stockbridge-Munsee Community to enforce tribal conservation codes and tribal civil violations. Conservation officers may also be authorized to enforce federal and/or state law, if they hold the appropriate credentials.

(B) "Tribe" means the Stockbridge-Munsee Community.

(C) "Tribal Officer" means any officer employed by the Stockbridge-Munsee Community and authorized by the Stockbridge-Munsee Tribal Council for the purpose of patrolling and enforcing state criminal laws and tribal civil regulatory laws.

(D) "Tribal Parks" means any tribal land specifically set aside for recreational use by Stockbridge-Munsee tribal members and their families and guests.

Section 16.5 Damage to Property Prohibited

(A) Damage to Property: No person shall deface, mar, injure, break or damage any tribal or private property. Tribal and private property includes, but is not limited to, physical structures

such as signs, statues, monuments, or buildings, infrastructure like roads and utility lines, and personal property such as vehicles and personal belongings.

(B) **Damage to Vegetation:** No person shall maliciously destroy, remove or cut down, root up, sever or injure any fruit, trees, shrubs, plants, flowers, or other vegetation. This provision does not prohibit activities such as gathering of medicine or transplanting plants and trees, with the required permission from the Tribal Council where applicable.

Section 16.6 Disorderly Conduct and Disturbing the Peace Prohibited

(A) **Disorderly Conduct:** Individuals are prohibited, in either a public or private place, from engaging in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance.

(B) **Disturbing the Peace:** No person shall make or cause to be made any loud, disturbing, or unnecessary sounds or noises or engage in other acts or omissions that disturb the peace and may reasonably be cause to annoy or disturb any person.

(C) Quiet times are between the hours of 10PM and 7AM in the Tribal housing area off of Camp 14 Road and tribal subdivisions. Persons shall not engage in conduct that is plainly audible at a distance of 50 feet during quiet times.

Section 16.7 Unlawful Use of Telephone and/or Electronic Communication Prohibited

(A) For purposes of this section, references to “messages” include making telephone calls as well as other forms of electronic communication, such as text messages, emails and social media posts.

(B) Whoever does any of the following is in violation of this ordinance:

(1) With intent to frighten, intimidate, threaten, abuse or harass, sends a message threatening to inflict injury or physical harm to any person or the property of any person.

(2) With intent to frighten, intimidate, threaten, abuse, offend or harass, sends a message using any obscene, lewd or profane language or suggests any lewd or lascivious act.

(3) Sends a message, regardless of whether or not received, without disclosing his or her identity and with intent to abuse or threaten any recipient(s).

(4) Repeatedly sends messages to another person or causes the telephone of another repeatedly to ring with intent to harass any recipient(s).

(5) Knowingly permits any telephone or electronic communication system under his or her control to be used for any purpose prohibited by this section.

Section 16.8 Harassment Prohibited

(A) In this section:

(1) “Course of conduct” means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.

(2) “Credible threat” means a threat made with the intent and apparent ability to carry out the threat.

(3) “Personally identifiable information” means information that can be associated with a particular individual through one or more identifiers or other information or circumstances.

(4) “Record” means any material on which written, drawn, printed, spoken, visual, digital or electromagnetic information is recorded or preserved, regardless of the physical form or characteristics, which has been created or is being kept by an authority including the Tribe.

(B) Whoever, with intent to harass or intimidate another person, does any of the following is in violation of this ordinance:

(1) Strikes, shoves, kicks or otherwise subjects the person to physical contact or attempts or threatens to do the same.

(2) Engages in a course of conduct or repeatedly commits acts which harass or intimidate the person and which serve no legitimate purpose.

(C) Whoever violates subsection (B) hereunder in any of the following circumstances is in violation of an additional count under this ordinance:

(1) The act is accompanied by a credible threat that places the victim in reasonable fear of death or great bodily harm.

(2) The act occurs while the actor is subject to an order or injunction that prohibits or limits his or her contact with the victim.

Section 16.9 Loitering and Trespass Prohibited

(A) Loitering: No person shall loiter, lounge, or loaf in or about tribal premises, such as the Tribal Offices, Tribal Administrative offices, Stockbridge-Munsee Health and Wellness Center, housing project area or other tribal buildings, facilities or grounds. A person is considered to be loitering on tribal premises if the person remains in an area for no legitimate reason.

(B) Trespass: No person shall enter or remain in a location where he or she is not authorized to be. Such trespass can include, but it not limited to, entry into another person’s home without

invite, entry in a building or part thereof that is not open to the public or from which a person has been banned, or the entry into a part of the reservation that is not open to the public by a non-member.

(C) Upon being requested to move by a tribal officer, conservation officer, or other authorized person, a person must immediately comply with such request by leaving the premises or area thereof at the time of the request.

Section 16.10 Misappropriation Prohibited

(A) Theft (less than \$100): No person shall intentionally take moveable property valuing less than \$50 of another without out the other's consent and with the intent to deprive the owner of possession of such property.

(B) Fraud on a Hotel, Restaurant or Gas Station: No person shall intentionally abscond without paying after obtaining food, beverage, lodging, fuel or other similar service from a hotel, restaurant, gas station or other similar establishment.

(C) Worthless Checks: No person shall issue a check or other order for payment that he or she intends shall not be paid.

(D) Restitution: In addition to other remedies, the court may order a violator to pay restitution to the victim.

Section 16.11 Smoking Prohibited

(A) Public Buildings: The use of cigarettes, pipes and any other tobacco products, which produce smoke, is prohibited inside all tribal buildings except where exceptions have been approved by the Tribal Council or for traditional ceremonial purposes.

(B) Underage Persons: No minor, or person over 18-years of age on behalf of a minor, may purchase, attempt to purchase, or possess any cigarette, nicotine product or tobacco product for use other than part of traditional ceremonial purposes.

Section 16.12 Public Intoxication Prohibited

(A) For purposes of this section, a person is considered "intoxicated" if he or she is under the influence of alcohol, drugs or another controlled substance to such a degree that their mental or physical functioning is substantially-impaired.

(B) Public Impairment:

(1) No person shall be along a roadway or in a tribal building or a place of worship while intoxicated.

(2) No intoxicated person shall engage in public conduct that constitutes a danger to oneself or others, including, but not limited to, falling, vomiting, public urination or acting in an unruly or combative manner.

(C) Open Intoxicants: No person shall have open intoxicants in a moving vehicle.

(D) Underage Persons: No person under the age of 21 shall be intoxicated or possess intoxicants unless accompanied by a parent, guardian or spouse.

Section 16.13 Drug-Related Criminal Activity Prohibited

(A) “Drug-related criminal activity” refers to the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use of a controlled substance (as such term is defined in 21 U.S.C. 802) or drug paraphernalia.

(B) No person shall engage in drug-related criminal activity.

Section 16.14 Obstruction Prohibited

(A) No person shall knowingly obstruct or resist a tribal officer or conservation officer while such officer is acting in an official capacity. Obstruction for purpose of this section includes fleeing, attempting to evade, physical interference, providing false information, or such other acts or omissions to impede law enforcement operations.

(B) No person shall, without reasonable excuse, refuse or fail to comply with any lawful order or direction of a tribal officer or conservation officer while such officer is acting in an official capacity.

(C) No person shall take actions to avoid, evade, or obstruct compliance with a lawful investigative demand by willfully concealing, withholding, destroying, altering, or otherwise falsifying information or materials that are the subject of such demand.

Section 16.15 Concealed Weapons Prohibited in Tribal Buildings

(A) Definitions. The following definitions apply in relation to this section.

(1) For purposes of this ordinance, the term “tribal building” includes the following:

- (a) structures that are used for the operation of the tribal government or tribal enterprises;
- (b) tribally-owned multi-unit dwellings; and
- (c) both the interior and outside premises of tribal buildings that primarily provide services to youth or elders, including parking lots.

(2) The term “weapon” includes, but is not limited to, objects such as guns, knives, and destructive devices like bombs.

(B) All persons, other than official law enforcement personnel, are prohibited from carrying weapons, concealed or otherwise, in tribal buildings.

Section 16.16 Littering Prohibited

No person shall throw any solid waste, appliances, electronic devices, furniture, tires, glass, refuse, waste, filth, or other litter upon the streets, parks, or other lands under tribal jurisdiction.

Section 16.17 Nuisance Prohibited

(A) “Public nuisance” refers to acts or omissions that are an unreasonable, significant interference:

- (1) with the rights of the tribal community to the free use of public property;
- (2) with community standards of public health, public safety, public peace, public comfort or public convenience; or
- (3) that in any way renders other persons insecure in life or the use of property or tends to depreciate the value of property of others.

(B) Individuals are prohibited from any act or omission that constitutes a public nuisance. The following is a non-exclusive list of actions that may constitute a public nuisance.

- (1) Allowing unlicensed, inoperable, disassembled, junked, or wrecked vehicles and/or scrap material or related items to be stored or remain in an area that does not have a permit to operate as a junkyard/recycling center or for auto repair in accordance with Chapter 43.
- (2) Failing to maintain yard and/or land assignment in safe and/or orderly condition.
 - (a) Allowing scrap, salvage, tires, refuse, or goods to accumulate in areas that are open to the elements so as to create areas that are unsightly and/or contribute to health and safety hazards.
 - (b) Failing to keep waste or garbage in an enclosed building or properly contained in a closed container designed for such purposes.
 - (c) Allowing vegetation to be a hazard to persons or property.
- (3) Failing to maintain a structure and/or infrastructure in a safe and sanitary condition.
 - (a) Structure that is not maintained to avoid deterioration or decay. This includes the failure to maintain windows, doors, siding, roof, steps, decks, walkways and other components.
 - (b) Failure to maintain a secure building envelope.

- (c) Failure to maintain adequate ventilation, sanitation or plumbing facilities.
- (d) Structure that is in a condition that constitutes a fire hazard.
- (e) Structure where there is hoarding or the accumulation of excessive goods as to become a health and/or safety hazard.

(4) Using property in a way that attracts violence and the threat of violence or that facilitates illegal activity, such as the drug trade or gang activity.

(5) Allowing physical hazards that are dangerous to children, including, but not limited to, abandoned or neglected equipment, pools, refrigerators, holes, excavations or rubble.

(6) Allowing wells to remain in place unsealed and/or unsecured.

(7) Allowing oil, toxic or noxious materials to discharge into the environment.

(8) Maintaining an excessive number of animals on premises.

(9) Allowing decayed animal or vegetable matter, trash, rubbish, bedding, packing material, or any material in which disease-carrying insects, rats or other vermin can breed, live, nest or seek shelter (exempting private compost piles and normal farm operations) to be in place.

(C) Process to Address Public Nuisances.

(1) The Tribe will identify a public nuisance. This identification can be based on a complaint from the public or can be initiated by tribal personnel.

(2) Once a public nuisance has been identified, the Tribe shall provide written notice of the public nuisance to the individual responsible for the public nuisance and/or the person responsible for the land where the public nuisance is located (e.g., the land assignment holder, occupant or other person controlling the land). If the person responsible for the public nuisance is unknown, then the notice shall be posted at the site of the public nuisance.

(a) The written notice shall contain a description of the public nuisance, the location of the public nuisance and provide an opportunity to cure within 21 days.

(b) For purposes of this section, curing a public nuisance means to either completely abate the nuisance or to prepare a remediation plan, which is acceptable to the Tribe, for abating the nuisance within an identified timeframe.

(c) The notice shall be signed and dated by the person issuing the notice on the behalf of the Tribe.

(d) This notice and opportunity to cure is waived in the event the public nuisance is a serious threat to life or limb or may result in irreparable injury, loss or damage to persons, community infrastructure or the environment.

(3) In the event that a public nuisance is not cured or in the event the right to cure is waived, then a tribal officer or conservation officer may issue a citation for a public nuisance violation against the individual responsible for the public nuisance and/or the person responsible for the land where the public nuisance is located.

(D) In the event the Court finds that there is a public nuisance, the Tribe may take such actions as are necessary and appropriate to recover damages and abate the public nuisance. Such actions may include, but are not limited to, obtaining an injunction to prevent a public nuisance from occurring. The individual responsible for the public nuisance shall be responsible for the costs to abate the public nuisance, as well as any fines levied under this ordinance.

Section 16.18 Condemnation of Unsafe Buildings

(A) Definitions. The following definitions apply for purposes of this section.

(1) “Building” includes any building or structure or part thereof.

(2) “Department” refers to the Land Management Department.

(3) “Owner” includes the owner of a building or structure, the person holding the underlying tribal land assignment, if different from the person who owns the building or structure, the person holding the land (if not a tribal land assignment) and the Owner’s agent, if one is designated.

(4) “Unsafe” refers to any building that is so dilapidated or out-of-repair as to be dangerous, unsanitary or otherwise unfit for human habitation or unreasonable to repair. Buildings are determined to be unsafe under the condemnation process.

(B) The Tribe may condemn buildings that are determined to be unsafe in accordance with the processes outlined under this ordinance.

(C) Departmental Condemnation Process.

(1) Upon the Tribe discovering or receiving a report of an unsafe building, the Department shall investigate the report.

(a) The Tribe shall inspect or have the building inspected. Such inspection may be by tribal staff or by other authorized individuals.

(b) In the event that the building is occupied, then the Tribe shall obtain the occupants’ permission prior to conducting such inspection.

(c) In the event the building is occupied and the occupants do not grant permission for an inspection, then the Tribe may obtain an inspection warrant from the Tribal Court.

(i) The Tribe must show that probable cause exists that the building is an unsafe building.

- (ii) The mere existence of a report shall not constitute probable cause; rather, other articulable facts must be presented to the Court.
- (iii) The Tribal Court shall schedule hearings in relation to the granting of the inspection warrant in an expedited manner.

- (d) In the event of an emergency situation where a building is believed to be an imminent danger to life or limb in the community, an inspection warrant shall not be required even if permission is not granted. Tribal staff shall be accompanied by a tribal officer or conservation officer for any such emergency inspection.
- (e) The Department shall take such other actions as necessary to reasonably investigate whether the building is unsafe.

(2) Following the investigation, the Department shall issue a dated, written report with its conclusion as to whether the building is unsafe.

- (a) This report should include the reasons why the Department concluded the building is or is not unsafe.
- (b) The report shall also include recommendations on what, if anything, should be done for remediation. For example, the Department may recommend that a building be razed since it is unreasonable to repair or identify if the building can be made safe by repairs.
- (c) The report shall identify if the unsafe building constitutes an emergency situation that is a serious threat to life or limb or may result in irreparable injury, loss or damage.

(3) A copy of this written report shall be served on the Owner, if known.

(4) Notice of the report shall be posted on all of the building's exterior doors.

- (a) This notice shall, at a minimum, identify the date that the written report was issued, the date the notice was posted, the Department's conclusion as to whether the building was unsafe, identify how the Owner can get a copy of the report, and identify any timeframes for the Owner to take action.
- (b) If the condition of the building warrants consideration as an emergency situation and/or requires that the building be vacated immediately, the notice shall identify such special considerations.

(5) If the Owner disagrees with the Department's conclusion, then the Owner shall have 30 days to contest the report from the latter of the date that the notice of the report is posted or the date of service on the Owner.

- (a) When an Owner disagrees, then the Owner must provide a written statement identifying why he/she disagrees, including supporting information, and identify what changes to the report are requested.

(b) The Owner may also request a meeting with the Department to discuss the report. However, if the Owner wishes to contest the report, the Owner must still submit the required written statement.

(b) This opportunity to contest the report is waived in emergency situations where the unsafe building is a serious threat to life or limb or may result in irreparable injury, loss or damage.

(6) The Department shall review any written statement contesting its report and, within 30 days, issue a letter either confirming the original report or issue a revised report.

(7) The Owner shall have 60 days to implement the Department's recommendations. This timeframe shall be calculated from the latter of either the date of the Department's report (if not contested) or, if the report is contested, the date that the report is confirmed or revised.

(a) This time shall be counted from either the date of the Department's report (if uncontested) or, if the report is contested, from the date the report is confirmed or revised.

(b) This timeframe may be extended upon a showing by the Owner that such an extension is necessary and appropriate.

(c) In emergency situations where an unsafe building is a serious threat to life or limb or may result in irreparable injury, loss or damage, this timeframe may be expedited to be less than 60 days.

(8) The Owner shall be responsible for all costs associated with implementing the Department's recommendation, as well as the Department's costs to implement and enforce this departmental condemnation process.

(D) Tribal Court Process.

(1) In the event an Owner fails to implement the Department's recommendations regarding an unsafe building, a tribal officer or conservation officer may issue a citation for a condemnation violation to the Owner.

(2) When a citation is issued for the failure to implement the Department's recommendations in an emergency situation, then the Tribal Court shall schedule any hearings in the matter in an expedited manner.

(3) The Tribal Court may consider the reasonableness of the Department's recommendations as part of a hearing on a condemnation violation.

(4) If the Tribal Court upholds the Department's recommendations, then the Tribal Court shall order that the Tribe may take such actions as are necessary and appropriate to abate the unsafe building. The Owner shall be responsible for the costs to abate the unsafe building, as well as any fines levied under this ordinance.

(5) If the Tribal Court upholds the Department's recommendation that a building be razed, then the Owner shall have up to thirty (30) days to vacate the building and remove any personal property. Personal property that has not been removed within this time will be deemed abandoned and disposed of by the Tribe.

(6) If, as part of a court proceeding, an unsafe building that is capable of repair is turned over to the Tribe, then the Tribe shall act as receiver and hold the building until it is sold or disposed of consistent with the following requirements.

(a) Any building sold under this provision is sold with the condition that any unsafe conditions that were identified must be remediated within a reasonable timeframe.

(b) The Tribe shall attempt to sell the property by public sale for a bona fide cash offer to be paid within forty-five (45) days of the public sale.

(c) The proceeds from any such public or private sale shall be first used to satisfy any indebtedness secured by the building, then any indebtedness owed to the Tribe based on the condemnation proceedings, and any remainder shall be paid to the Owner.

(d) If no offer is accepted at the public sale, then the Tribe may sell the building by private sale.

(e) The Owner shall have no interest in the proceeds if the building is sold by private sale.

(f) In the event there is no private sale, then the building may be disposed of by the Tribe and the Owner shall have no interest in the proceeds.

Section 16.19 Abandoned Buildings

(A) Definitions.

(1) "Abandoned building."

(a) A building that is not legally occupied for a period of more than eighteen (18) consecutive months and is not subject to maintenance or oversight so that it falls into disrepair.

(b) Buildings that are not occupied on a regular basis, but are subject to reasonable maintenance or oversight (such as a second home or vacation cabin), are not considered to be abandoned even if unoccupied for more than 18 months.

(c) Buildings that are allowed to remain in a partially destroyed condition for more than six (6) months are considered to be abandoned.

(2) "Owner" means the person(s) who legally own the building as personal property or may be the person(s) holding the underlying tribal land assignment (if different from the person who owns the building), or the person holding the land (if not a tribal land assignment), or the Owner's agent, if one is designated.

(B) Abandoned buildings are considered to be a nuisance and, depending on the condition, may also be an unsafe building under tribal law.

(C) Process to Address Abandoned Building when Owner is Known.

(2) When the Tribe identifies an abandoned building and the owner of that building is known, then the Tribe may use the nuisance or condemnation process under this ordinance, as appropriate, to abate the problem.

(3) When a building appears to be abandoned and the person holding the land assignment is known, then the Tribe may alternatively use the abandonment process for land assignments, as outlined in Chapter 40, the Land Ordinance, to abate the problem.

(D) Process to Address Abandoned Building when Owner is Unknown.

(1) When the Owner of an abandoned building is unknown, then the Tribe shall have the building declared abandoned through the Tribal Court.

(2) The summons and complaint for an action to have a building declared abandoned shall be served by publication in the tribal newspaper.

(3) If a person appears to contest that the building is abandoned, then that person must show by preponderance of the evidence that he/she is the building's Owner.

(4) If the Tribal Court declares that a building is abandoned, then that building shall become the property of the Tribe. The Tribe shall be authorized to dispose of the building as it deems appropriate.

(a) Unauthorized tenants and alleged Owners shall have no rights in relation to a building after a declaration of abandonment.

(b) The Tribe shall post notice that the property has been declared abandoned by the Tribal Court on the door of the building and provide unauthorized tenants with an opportunity, not to exceed 10 days, to remove personal belongings from the building.

Section 16.20 Animal Control

(A) Definitions. The following definitions shall apply for purposes of this section.

(1) "Animal" includes every living warm-blooded creature (except human beings), reptile, or amphibian.

(2) "Domestic animal" refers to dogs, cats, small pets, and livestock.

(3) "Livestock" refers to any horse, bovine, sheep, goat, pig, llama, alpaca, domestic rabbit, farm-raised deer, or domestic fowl.

(4) "Owner" refers to any person who owns, harbors, or keeps an animal.

(B) Annual Dog/Cat License.

(1) Any dog or cat that is at least 5 months of age is required to have a valid license.

(2) Owners shall obtain and maintain a current license their dog(s)/cat(s).

(3) Owners shall pay the license fee and provide evidence that the dog/cat is currently immunized against rabies in order to obtain a license tag from the Public Safety Department.

(4) The license fee shall be \$2.00 per dog/cat and may be changed by the Tribal Council by resolution.

(5) The Public Safety Department shall maintain a record of the licenses issued.

(6) Licenses are good for one (1) calendar year and must be obtained in January of each year. If an owner fails to obtain the license in a timely fashion, then the owner shall pay a fine of \$25.00 in addition to the license fee.

(7) The license fee is waived for service dogs, including dogs that provide assistance to persons who are blind, deaf, or mobility-impaired, but such dogs still require a license.

(C) Animal Health.

(1) Dog and cat owners shall have and maintain a current rabies vaccination for their dog(s) that have reached 5 months of age.

(2) If a dog or cat that bit a person is believed to be infected with rabies and can be safely captured, then the animal will be captured and put in quarantine.

(a) If quarantine cannot be imposed since the animal cannot be captured, then the animal shall be killed in a humane manner and avoids damage to the animal's head so that it can be tested for rabies.

(b) The quarantine shall be under veterinary supervision and shall be as necessary to prevent health risk to humans and animals.

(c) If, at the end of the quarantine period, a veterinarian certifies that the dog or cat has not exhibited any signs of rabies, then the animal will be released from quarantine.

(d) If it is determined that it is not safe or appropriate to quarantine an animal, then that animal may be euthanized in a humane manner that avoids damage to the animal's head so that it can be tested for rabies.

(3) If an animal other than a dog or cat is believed to be infected with rabies, then a tribal officer or conservation officer may kill or order that animal be killed in a humane manner that avoids damage to the animal's head so that it may be tested for rabies.

(4) The owner of an animal suspected to be infected with rabies shall be responsible for the costs associated with keeping the animal in quarantine and/or the costs associated with examination of the carcass.

(5) No person may import, sell, transport or exhibit an animal that is exposed to or infected with a contagious or infectious disease.

(6) The Tribe may condemn animals that are affected by a contagious or infectious disease if it determines it is necessary to do so to prevent or control the spread of the disease. The Tribe will generally obtain a court order in relation to such condemnation, but this requirement is waived in emergencies when immediate action to protect the safety of humans. Condemned animals shall be destroyed as directed by the Tribe.

(D) Violations. Except as otherwise provided, no person may:

(1) Allow any domestic animal owned by that person to run at large.

(a) Running at large means a domestic animal is off the premises of its owner and not under the direct control of the owner or another individual.

(b) An animal that is actively engaged in a legal hunting or working activity and/or training, is not considered to be running at large if the animal is monitored or supervised by a person on land that is open to hunting.

(2) Allow any dog or cat owned by that person to be untagged. Untagged, for purposes of this section, means that valid license and rabies tags are not attached to a collar that is kept on the dog whenever the dog is outdoors.

(3) Treat any animal in a cruel manner. Cruel means causing unnecessary and excessive pain or suffering or causing unjustifiable injury or death by any means.

(4) Allow any animal owned by that person to be abandoned.

(5) Own or keep an animal, which by frequent howling, whining, yelping, barking, or otherwise shall cause serious annoyance or disturbance to a person or persons living in the area. No persons shall be convicted under the provisions of this subsection, except upon the evidence of at least 2 persons, who are not in the same household.

(6) Own an animal that, when unprovoked, bites a person or domestic animal or otherwise engages in behavior causing injury to a person or domestic animal.

(7) Own an animal that, when unprovoked, approaches and threatens to attack or attacks a person or another domestic animal when the animal is not under the owner's control and off of the owner's property.

(8) Own more than two (2) dogs or cats per residence, except that if a person owns more as of June 1, 2015, then such dogs/cats are authorized for their lifetime, so long as the total number does not exceed 5. This provision is not intended to grant owner permit authorization to keep more than 2 dogs or cats on a permanent basis. The following exceptions will be allowed, so long as the exception is registered with the Public Safety Department:

- (a) A litter of puppies or kittens until the puppies or kittens reach 6 months of age;
- (b) A business enterprise such as a kennel or dog training business, so long as the business is properly permitted under tribal law; or
- (c) Sled dogs, working dogs, and hunting dogs, as long as they are properly maintained and do not create a nuisance.

(9) Fail to provide proper food, drink or shelter to an animal owned or kept that person.

(10) Instigate, promote, aid or abet fights between animals or between an animal and person.

(11) Keep custody or control of a wild animal or of an exotic animal that, due to its inherent nature, may be considered dangerous to humans.

(E) Authority of the Tribe to protect the public safety and welfare of the Community.

(1) An authorized officer or employee of the Tribe shall attempt to capture and restrain any domestic animal running at large or any untagged animal. The domestic animal may be taken into custody and kept at a place designated by the Tribe for such purposes.

- (a) If the identity of the owner of a domestic animal taken into custody under this ordinance is known or can be determined, the Tribe shall provide written notice to the owner that the domestic animal is in custody.
- (b) If the owner or an agent of the owner fails to claim the domestic animal within 7 days, the animal will be considered abandoned.
- (c) No domestic animal in custody of the Tribe or taken into custody by the Tribe and housed elsewhere shall be returned to the owner or an agent of the owner unless all required licenses, custody, care, vaccination and treatment costs are obtained and fully paid.
- (d) If the identity of the owner of a domestic animal taken into custody under this ordinance is not known or cannot be determined with reasonable diligence, the animal shall be considered a stray.

(2) Unclaimed stray animals remaining in custody of the Tribe for more than 7 days and abandoned animals remaining in the custody of the Tribe for 7 days after issuance of the notice to the owner may be released to a person other than the owner or euthanized, pursuant to tribal policies.

(3) A tribal officer or conservation officer may take any reasonable actions to protect public safety and welfare, the safety of him or herself, and the safety of other animal(s) and property. Reasonable actions include, but are not limited to, taking an animal into custody or destroying an animal in a humane manner if it cannot be controlled by the officer or an owner or custodian on the scene.

(F) Costs. In addition to any penalties or remedies assessed under this ordinance, an animal owner shall be responsible for all costs related to the custody and care of an animal in the event that the animal is taken into custody by the Tribe or to remediate damage caused by the animal.

(G) Remedies for Dangerous Animal. If an animal is deemed to be a danger to the community by a court, then the Tribe may request any remedy appropriate to mitigate the danger, which may include, but is not limited to, having the animal destroyed in a humane manner or banning it from tribal lands.

Section 16.21 Park Rules

(A) Regular Park Rules. All persons using the tribal park facilities shall abide by the following special terms and conditions:

(1) Camping is permitted in designated camping areas only.

(2) No fires are permitted except in designated campfire areas. Only firewood that was gathered from within the geographic boundaries of the townships of Bartelme or Red Springs may be used for campfires.

(3) There shall be no littering of any kind inside park boundaries. Garbage and recycling containers shall be used, as appropriate, to dispose of waste materials. If no garbage or recycling container is provided, then waste materials must be packed out.

(4) Defacing of any park property or vegetation is strictly prohibited.

(5) The maximum speed limit on park and campground roads is 15 m.p.h.

(6) Through traffic is prohibited on the campground road when the Pow Wow or other tribal functions are scheduled in the park area.

(7) Fishing (by tribal member or those with required permits) in the river is prohibited in designated swimming areas, when swimmers are present.

(8) Excessive noise is prohibited.

- (9) Campers shall observe established campground rules.
- (10) No alcohol shall be allowed in any tribal parks from the hour of 10 p.m. until the hour of 10 a.m.
- (11) After 8 p.m., no minors are allowed except if accompanied by a responsible adult, such as a parent or guardian.
- (12) Fireworks are not permitted.
- (13) Any visibly intoxicated, boisterous, or discourteous person(s) will be subject to immediate removal in addition to any other penalties.
- (14) There shall be no parking in private driveways without the land assignee's permission.
- (15) No weapons or firearms are permitted at any time, other than those carried by official law enforcement personnel.
- (16) Camping is by permit only.
 - (a) Permits are available to Tribal members from the Property and Equipment Department, Monday through Friday 8 a.m. to 4:30 p.m., and shall be available online at the Tribe's website.
 - (b) Tribal Members and their family and/or guests may camp.
 - (c) All campers must abide by all Tribal rules and regulations.
 - (d) If the camper will utilize electricity, a \$3.00 charge per night must be paid prior to permit being issued.
 - (e) Permits are subject to revocation if rules and regulations are violated and the applicant may be barred from applying for camping permits in the future.
- (17) Use of the park, including the campground, by others may be granted by Tribal Council upon such terms and conditions as the Tribal Council shall deem appropriate.

(B) Additional Rules for Pow Wow Weekend and Other Special Tribal Events. During the annual Pow Wow weekend and five (5) days before and after Pow Wow weekend, and other special Tribal events that may arise, the following additional rules apply:

- (1) Stockbridge-Munsee Police Department shall coordinate overall security at the event(s). The Police Department will work with the event's organizers to identify security needs and security personnel that the organizers need to provide.
- (2) No alcohol is allowed in the entire park, including the campground, at any time.
- (3) Quiet time shall be from 8 p.m. to 10 a.m.

(4) Camping, parking, and vending shall only be in designated areas.

(5) No pets or other animals are permitted at any time, other than service animals.

(C) Penalties and Enforcement. In addition to any other penalty, including criminal charges:

(1) Citations against minors may also be issued against the parent(s) or guardian of the minor.

(2) Violators are subject to immediate removal and eviction from the event and are subject to being banned for up to 12 months.

(3) Vehicles may be towed from the park at the owner's expense.

(4) Alcohol, fireworks, weapons, firearms or other dangerous or illegal items are subject to confiscation.

Section 16.22 Enforcement

(A) Tribal officers and conservation officers have authority to investigate and enforce the provisions of this ordinance. Tribal officers and conservation officers shall conduct such activities in good faith and in accordance with good law enforcement practices, as well as take such actions as appropriate to the circumstances and under applicable law.

(B) Tribal officers and conservation officers may issue warnings and/or citations to individuals who violate this ordinance. Such warnings and/or citations issued under this ordinance are considered to be civil, not criminal, in nature.

(C) Tribal officers and conservation officers are authorized to seize and confiscate materials used as part of violations of this ordinance as appropriate. Such materials shall be considered evidence and shall be properly recorded and secured pending return or disposition, as appropriate, upon resolution of any citation.

(D) Parties to a Violation.

(1) Whoever is concerned in the commission of a violation of this ordinance is a principal and may be charged with the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted of the violation.

(2) A person is concerned in the commission of a violation, if the person:

(a) Directly commits the violation; or

(b) Aids and abets the commission of it; or

(c) Is a party to a conspiracy with another to commit it or advises, hires, or counsels or otherwise procures another to commit it.

(3) Any person who attempts any violation of this ordinance shall be subject to the same infraction if they had completed all the steps for a violation. An attempt to commit a violation requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute a violation and that the actor does acts towards the commission of the violation which demonstrate unequivocally, under all the circumstances, that the actor formed that intent and would commit the crime except for the intervention of another person or some other extraneous factor.

Section 16.23 Burden of Proof and Statute of Limitations

(A) The burden of proof for citations issued under this ordinance, unless specified otherwise, shall be by preponderance of the evidence, which is a showing that it is more likely than not that the facts alleged are true.

(B) A citation for a violation of this ordinance must be issued within one (1) year after the commission of the violation.

Section 16.24 Penalties and Remedies for Violations

(A) In addition to any other remedy, any person who violates any provision of this ordinance or any rule or regulation authorized thereunder, shall be guilty of a tribal civil offense punishable by a forfeiture of up to Five Thousand dollars (\$5,000.00). The following forfeiture schedules shall generally apply for violations of this ordinance.

(1) For violations by individuals who are 16 years of age or younger:

- (a) 1st offense is \$50;
- (b) 2nd offense within 1 year is \$100; and
- (c) 3rd offense and subsequent within 1 year is \$175.

(2) For violations by individuals who are 17 years of age or older:

- (a) 1st offense is \$300;
- (b) 2nd offense within 1 year is \$500; and
- (c) 3rd offense and subsequent within 1 year is \$750.

(3) Deviations from these schedules are permitted when appropriate based on extenuating circumstances.

(B) Individuals receiving a citation may choose to not contest the citation and pay the forfeiture amount in full prior to any scheduled court appearance. If the forfeiture is not paid in full, then the individual, and/or his/her legal representative, must appear for scheduled court appearance(s). The failure to appear may result in a default judgment being entered against the individual.

(C) The Stockbridge-Munsee Tribal Court may, in addition to the forfeiture described herein, grant such other relief as is necessary and proper for the enforcement of this ordinance.

(D) Each day that a violation exists or continues shall be considered a separate offense under this ordinance.

Section 16.25 Future Amendments

Amendments to this Ordinance will be effective upon enactment by the Stockbridge-Munsee Community Tribal Council without further review by the Secretary of the Interior.

Section 16.26 Severability

If a court of competent jurisdiction finds any portion of this Ordinance illegal, the remaining portions of this Ordinance shall remain unaffected and remain in force.

LEGISLATIVE HISTORY

1. Ordinance No. 5 an ordinance to minimize health and accident hazards within the reservation proper...adopted by the Tribal Council January 13, 1973 (No BIA approval); included Snowmobile Resolution No. 1 dated January 6, 1973.
2. Resolution No. 0506, dated May 3, 1974, established an ordinance entitled "Rules and Regulations-Stockbridge-Munsee Campground".
3. Public Peace and Good Order Ordinance presented to tribal council for consideration, public hearing held on August 26, 1986.
4. September 21, 1988, to ordinance committee for review.
5. Approved by tribal council, October 4, 1988, for posting with appropriate changes made.
6. Public Peace and Good order Ordinance adopted by Resolution No. 1113, November 1, 1988. Listing received from BIA shows they have it on file.
7. Resolution No. 1552-95, November 7, 1995, amends Ordinance by replacing "Tribal Council" with "Tribal Court" in Section 16.14 VIOLATION: JURISDICTION.
8. Amended in July 1996 to disallow alcohol in tribal parks.
9. Amended October 7, 1997, by Resolution No. 251-97.
10. Amended by Tribal Council on July 18, 2006 by repealing and recreating Section 16.10, Animal Control; Subsections 16.11(A) 11-17, under Park Rules, are created; Section 16.11(B) for Pow Wow Park Rules is created; Section 16.11(C) is created; Section 16.15, Future Amendments, is created; and Section 16.16, Severability, is created, Resolution Number 050-06. Approved by BIA on August 15, 2006.
11. On June 3, 2015, Tribal Council by Resolution No. 049-15 repealed existing Chapter 16 and adopted a new version of Chapter 16. New version of ordinance renumbered, reorganized and clarified existing material. It also added new sections on jurisdiction, as well as new violations for misappropriation, drug-related criminal activity, public intoxication, obstruction, nuisance, condemnation and abandoned buildings, and codified Resolution 042-11 regarding concealed weapons. BIA approval not required per Section 16.25 (formerly Section 16.15).